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June 24, 2004

**VIA HAND DELIVERY**

Honorable Kim Beals, Esq., Hearing Officer  
c/o Sharla Dillon, Docket & Records Manager  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee, 37243-0505

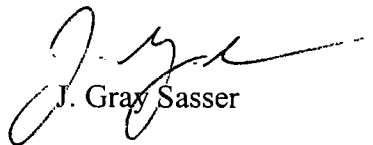
Re: Petition of Cellco Partnership d/b/a/ Verizon Wireless for Arbitration Under the  
Telecommunications Act of 1996, TRA Consolidated Docket No. 03-00585

Dear Hearing Officer Beals:

Attached hereto please find an original and thirteen (13) copies of the rebuttal testimony of (i) William H. Brown on behalf of Cingular Wireless, (ii) Billy H. Pruitt on behalf of Sprint PCS, and (iii) W. Craig Conwell on behalf of Verizon Wireless, Cingular Wireless, AT&T Wireless and T-Mobile. Rebuttal testimony of the other CMRS Providers will be filed under separate cover today.

The enclosed documents have been served on counsel for the Rural Coalition of Small LECs and Cooperatives. If you have any questions about this filing or need any additional information, please do not hesitate to give me a call at (615) 744-8576.

Regards,



J. Gray Sasser

JGS/ctr  
enc.

Honorable Kim Beals, Esq., Hearing Officer  
June 24, 2004  
Page 2

cc: William T. Ramsey  
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Additionally, I will comment upon (1) the ICOs' continuing failure to produce the cost support required by FCC regulations, (2) the issues (repeated over and over again in Mr. Watkins' testimony) that have already been decided by the Hearing Officer, (3) Mr. Watkins' claim that the ICOs cannot use the records received from BellSouth to bill the CMRS Providers for the termination of wireless-originated traffic, and (4) Mr. Watkins' repeated allegation that "the FCC's pricing rules do not apply to the rural ICOs." (P. 37.)

## ICOS' FAILURE TO PRODUCE COST SUPPORT

**Q. HAVE THE ICOS' PRODUCED ANY COST SUPPORT TO JUSTIFY THEIR PROPOSED RATES?**

A. No. As I mentioned in my direct testimony, despite repeated requests from the CMRS Providers, prior to the filing of Mr. Watkins' testimony, the ICOs had refused to produce any cost support. Mr. Watkins' testimony does contain proposed rates (included as Confidential Attachment E), but those rates are not supported by any cost data that has been supplied to either the CMRS Providers or the TRA.

Mr. Watkins claims that the proposed rates contained in Attachment E are "voluntary rate offers" which are made "outside the scope of the arbitration proceeding." (P. 37) Mr Watkins also claims that the "voluntary offers" are "the same transport and local switching elements as the National Exchange Carrier Association ("NECA") has calculated and filed with the FCC for interstate

1 access purposes." (P. 35.) According to Mr. Watkins, NECA filings "are a matter  
2 of public record before the FCC." (P. 36.) Mr. Watkins, however, gives no  
3 indication of where such filings may be found.  
4

5 **Q. HAVE YOU ATTEMPTED TO FIND ICO COST SUPPORT ON THE**  
6 **NECA WEBSITE?**

7 A. Yes. The NECA website discusses NECA FCC Tariff 5, which it describes as  
8 follows:

9 "Tariff No. 5 contains the rates and regulations applicable to  
10 interstate access services offered by those local telephone  
11 companies participating in the tariff. The tariff is on file with the  
12 Federal Communications Commission (FCC), which is the  
13 regulatory agency charged with regulating interstate access  
14 services, among others services."  
15  
16  
17

18 **Q. IS ANY OTHER TARIFF MENTIONED ON THE NECA WEBSITE?**

19 A. Yes. The NECA website also refers to NECA Tariff 4, which is described as  
20 follows:

21 "NECA's Tariff FCC No. 4 is your company's legal billing  
22 authority for your interstate access service charges. Tariff No. 4 is  
23 the database that carriers reference for the ordering, billing, and  
24 provisioning of interstate access services in North America. Tariff  
25 No. 4 contains information on telecommunications providers that  
26 describes the location and technical capabilities of the wire centers  
27 which provide interstate access. It also contains interconnection  
28 information that supports the ordering, billing, and provisioning of  
29 interstate access services."  
30  
31  
32

33 **Q. WERE YOU ABLE TO FIND ANY COST SUPPORT ON THE NECA**  
34 **WEBSITE?**

1 A. I found sections labeled "Average Schedule Company Support" and "Cost  
2 Company Support." However, only NECA members can access their own data in  
3 those sections. Thus, I don't know if those sections contained cost data specific to  
4 each ICO.

5  
6 **Q. DID YOU ATTEMPT TO FIND COST SUPPORT FOR EACH ICO ON**  
7 **THE FCC WEBSITE?**

8 A. Yes. The FCC website contains the Electronic Tariff Filing System (ETFS)  
9 which lists all companies that have filed interstate access tariffs with the FCC.  
10 None of the ICOs is listed. This means that none of the ICOs has filed separate  
11 interstate access tariffs with the FCC.

12  
13 **Q. DID YOU FIND COST SUPPORT FOR ANY OF THE ICOS ON THE FCC**  
14 **WEBSITE?**

15 A. No.

16  
17 **Q. SHOULD THE TRA CONSIDER THE PROPOSED RATES CONTAINED**  
18 **IN CONFIDENTIAL ATTACHMENT E TO MR. WATKINS'**  
19 **TESTIMONY?**

20 A. No. As I mentioned in my direct testimony, FCC regulations expressly require  
21 the ICOs to produce cost data in support of any proposed rates. 47 CFR §  
22 51.301(a) states:

23 "An incumbent LEC shall negotiate in good faith the terms and  
24 conditions of agreements to fulfill the duties established by

1 sections 251(b) and (c) of the Act."

2  
3 The Regulation goes on to give specific examples of a breach of the duty to  
4 negotiate in good faith. Section 51.301(c)(8)(ii) states:

5 "If proven to the Commission, an appropriate state commission, or  
6 a court of competent jurisdiction, the following actions or  
7 practices, among others, violate the duty to negotiate in good faith:

8 .....  
9 (ii) Refusal by an incumbent LEC to furnish cost data that would  
10 be relevant to setting rates if the parties were in arbitration.

11  
12 Even at this late hour, after the filing of Mr. Watkins' Direct Testimony, the ICOs  
13 have still failed to provide any cost support.

14  
15 Thus, neither the CMRS Providers nor the TRA have any way of analyzing Mr.  
16 Watkins' proposed rates to see if they comply with FCC regulations. Mr. Watkins  
17 claims that "[i]f so-called 'forward-looking' cost studies were applicable to the  
18 rural ICOs . . . the rate for termination in the rural ICO areas would be higher than  
19 the voluntarily proposed rates." (P. 36.) Yet Mr. Watkins supplies no data by  
20 which any party can test that assertion.

21  
22 Because the ICOs continue to refuse to abide by FCC regulations regarding the  
23 production of cost support, I believe they are continuing to fail to negotiate in  
24 good faith. For that reason, I believe that the TRA should not consider the  
25 proposed rates contained in Mr. Watkins' Attachment E. As I discussed in my  
26 Direct Testimony, under FCC regulations, the only compensation option  
27 remaining is Bill-and-Keep.

1   **Q.    EVEN IF MR. WATKINS HAD PRODUCED COST SUPPORT, WOULD**  
2   **HIS PROPOSED RATES BE APPROPRIATE?**

3   A.   No.  As I will discuss in more detail below, under FCC regulations, access  
4   charges are not appropriate for transport and termination rates.  The determining  
5   rule for compensation for local traffic is 47 C.F.R. § 51.705(a), which requires  
6   that rates for transport and termination be based on “forward-looking costs of  
7   such offerings, using a cost study pursuant to §§ 51.505 and 51.511;” or a Bill-  
8   and-Keep arrangement.  The rates proposed by the Rural Coalition recover the  
9   costs of *switched access*, not *transport and termination*.  Therefore, the proposed  
10  rates are inappropriate.

11

12                   **ISSUES ALREADY DECIDED BY THE HEARING OFFICER**

13   **Q.    DOES MR. WATKINS' TESTIMONY RAISE ISSUES THAT HAVE**  
14   **ALREADY BEEN DECIDED BY THE HEARING OFFICER?**

15   A.   Yes.  Throughout his testimony, Mr. Watkins makes the following claims:

16

17       1.  The ICOs cannot be required to enter into a two-party agreement with any  
18   CMRS Provider.  Any agreement involving traffic exchanged indirectly between  
19   an ICO and a CMRS Provider must also include BellSouth (the transiting carrier).  
20   (See, for example, p 4.)

21



1           2. The FCC's reciprocal compensation principles do not apply to traffic  
2           exchanged indirectly through a transiting carrier's tandem. (See, for example, p.  
3           37.)

4  
5           3. Any offers made by the ICOs are on a purely voluntary basis and are "outside  
6           the scope of the arbitration proceeding " (See, for example, p. 37.)

7  
8   **Q.   WHEN DID THE HEARING OFFICER RULE ON THE ABOVE ISSUES?**

9   A.   In overruling the ICOs' Motion to Dismiss, the Hearing Officer made the  
10       following specific rulings:

11  
12       **1.   Three-Party Contract Issue:** Regarding the ICOs' claim that BellSouth  
13       should be made a party to this arbitration, the Order overruling the ICOs' Motion  
14       to Dismiss stated:

15               " . . . [T]here is no provision in federal law for including any  
16               additional parties in the negotiation process. Because arbitration is  
17               simply an extension of voluntary negotiations, there is, likewise,  
18               no allowance made in federal law for participation in arbitration of  
19               any party other than the ILEC and requesting carrier(s)." (Order  
20               Denying Motion, p. 6.)  
21

22       Thus, all of Mr. Watkins complaints about the necessity of including BellSouth in  
23       this arbitration are a restatement of an issue already decided. (See Issue 4 on the  
24       Joint Issues Matrix.) The ICOs chose to raise this issue in the form of a Motion to  
25       Dismiss, an extremely unusual procedure in a § 252 arbitration. The ICOs raised

1 the issue prior to filing testimony, and the Hearing Officer has already ruled upon  
2 it. The issue is thus decided, and Mr. Watkins testimony on it can be ignored.

3  
4 **2. Application of Reciprocal Compensation Principles to Indirect**

5 **Interconnection:** This issue, included as Issue 2 on the Joint Matrix, was also  
6 raised in the ICOs' Motion to Dismiss. Once again, the Hearing Officer has  
7 already ruled on it:

8 "Pursuant to 47 U.S.C. § 252(a)(1), the members of the Coalition,  
9 as well as the CMRS providers, are required to interconnect, either  
10 directly or indirectly, with all other telecommunications carriers.  
11 As local exchange carriers, the Coalition members are also  
12 obligated to establish reciprocal compensation arrangements for  
13 both the transport and termination of telecommunications traffic."  
14 (Order Denying Motion, p. 6.)  
15

16 Mr. Watkins' testimony on this issue can also be ignored  
17  
18  
19

20 **3. Offers made by the ICOs are outside the scope of the arbitration:** This

21 issue involves Mr. Watkins' claim that the ICOs' proposed rates are "outside of the  
22 scope of the arbitration proceeding." (P. 37.) Mr. Watkins seems to think that the  
23 ICOs cannot be forced to arbitrate, yet here the ICOs are. The CMRS Providers  
24 have previously pointed out that the ICOs represented to this Commission a  
25 willingness to negotiate and, if necessary, arbitrate. Thus, Mr. Watkins' claim to  
26 the contrary is disingenuous. In any event, his claim has been dispatched in the  
27 Order overruling the ICOs Motion to Dismiss:

28 " . . . [T]he Parties are required to negotiate in good faith and,  
29 should these efforts be unproductive, to file for arbitration with the  
30 TRA. Upon receipt of a proper petition for arbitration, the TRA is  
31 required to resolve all issues presented to it for consideration in the

petition. Because the CMRS providers have followed exactly the procedure for negotiation and arbitration as outlined in 47 U.S.C. §§ 251 and 252, and the Coalition had, prior to the filing of this Motion, agreed to participate in this proceeding, there is no basis on which to dismiss these petitions." (Order Denying Motion, p. 9.)

**CLAIM THAT ICOS CANNOT USE THE RECORDS PRODUCED BY  
BELLSOUTH TO BILL THE CMRS PROVIDERS FOR  
TRANSPORT AND TERMINATION**

**Q. WHAT DOES MR. WATKINS CLAIM REGARDING BILLING FOR  
INDIRECT TRAFFIC?**

A. Mr. Watkins claims that the ICOs should not be required to bill the CMRS Providers for traffic exchanged through indirect interconnection, because the ICOs cannot use the BellSouth tandem records to produce accurate bills.

**Q. DO THE BELLSOUTH RECORDS CONTAIN INFORMATION WHICH  
SHOULD ENABLE THE ICOS TO PRODUCE ACCURATE BILLS TO  
THE CMRS PROVIDERS?**

A. Yes. My understanding is that BellSouth provides to the ICOs industry-standard Category 11 records that identify both the originating and terminating carrier for each call between ICO and CMRS provider transiting the BellSouth tandem. Attached to my testimony as Exhibit A are a generic description and example of the billing records produced by BellSouth and delivered to the ICOs. As the generic example shows, the Originating OCN (Operating Company Number) is contained in lines 167-170. The terminating OCN is contained in lines 182-185.

1 As the generic description states, the OCN "can be obtained from the Operating  
2 Telephone Company Numbering Plan Guide (OTCNPG) or the Bellcore Rating  
3 Administrative Data System (BRADS) NPA/NXX/V&H Coordinate Data File."  
4 Minutes of use for billing purposes (broken down by minutes, seconds and 1/10's  
5 of a second) are contained in lines 61-67. These records provide all the  
6 information needed by the ICOs to bill the CMRS Providers.

7  
8 **Q. DO ANY OF THE ICOS CURRENTLY HAVE FILED**  
9 **INTERCONNECTION AGREEMENTS THAT ALLOW FOR THE**  
10 **EXCHANGE OF INDIRECT LOCAL TRAFFIC AND BILLING BASED**  
11 **UPON THE RECORDS PRODUCED BY BELLSOUTH?**

12 A. Yes. Concord Telephone Exchange, Inc, Tennessee Telephone Company,  
13 Humphreys County Telephone Company and Tellico Telephone Company, Inc.  
14 (referred to collectively as "TDS Telecom") have executed an interconnection  
15 agreement with NewSouth Communications Corporation that has been filed of  
16 record with the TRA in Docket No. 04-00081. A copy of the relevant portions of  
17 the agreement, including the filed-stamped cover letter, is attached to my  
18 testimony as Exhibit B. Section 5.1 states:

19 "Where the Parties utilize Indirect Interconnection via third party  
20 tandems for the exchange of traffic between their respective  
21 networks, each Party shall be responsible for the message  
22 recording required to produce accurate bills, or may utilize records  
23 provided by the tandem operator to invoice for traffic terminating  
24 on its network. *The Parties agree to accept the billing records*  
25 *from the tandem operator as an accurate statement of traffic*  
26 *exchanged between the Parties "* (Emphasis added )  
27

1 The identical provision is contained in filed interconnection agreements between  
2 the four TDS Telecom ICOs and US LEC of Tennessee (Docket 00-00026,  
3 Exhibit C hereto) and XO Tennessee (Docket 03-00568, Exhibit D hereto).  
4

5 **ALLEGATION THAT THE FCC'S PRICING RULES**  
6 **DO NOT APPLY TO THE RURAL ICOS.**  
7

8 **Q. WHAT DOES MR. WATKINS MEAN WHEN HE CLAIMS THAT THE**  
9 **FCC'S PRICING RULES DO NOT APPLY TO THE ICOS?**

10  
11 A. He never explains himself. For example, on page 37, he states: "During the  
12 course of the negotiations, even though the FCC's pricing rules do not apply to the  
13 rural ICOs and do not apply to indirect arrangements, the ICOs voluntarily  
14 offered rates based on the principles set forth above." Similarly, on page 36, he  
15 states: "If so-called 'forward-looking' cost studies were applicable to the rural  
16 ICOs --and they are not-- I respectfully submit that no forward-looking pricing  
17 methodology could assume universal service cost recovery and that the rate for  
18 termination in the rural ICO areas would be higher than the voluntarily proposed  
19 rates." Despite these provocative assertions, I can find nothing in Mr. Watkins'  
20 testimony explaining why the FCC's pricing rules do not apply to the ICOs.  
21

22 **Q. ARE THE ICOS' CLAIMING THE RURAL EXEMPTION FOUND IN 47**  
23 **U.S.C. § 252(F)?**

24 A. Not to my knowledge. At no time during negotiations did the ICOs make such a  
25 claim, nor have they claimed the rural exemption in anything filed in this

1 proceeding. On the contrary, as the Hearing Officer noted in the Order overruling  
2 the ICOs' Motion to Dismiss, the ICOs have previously represented to the TRA a  
3 willingness to arbitrate to decide all disputed issues.  
4

5 **Q. ARE YOU AWARE OF ANY REASON WHY THE FCC'S PRICING**  
6 **RULES DO NOT APPLY TO THE ICOS?**

7 A. No. Those rules apply to the ICOs and to all other Incumbent Local Exchange  
8 Carriers.  
9

10 **ISSUE 2: DO THE RECIPROCAL COMPENSATION REQUIREMENTS OF 47**  
11 **U.S.C. § 251(B)(5) AND THE RELATED NEGOTIATION AND**  
12 **ARBITRATION PROCESSES OF § 252(B) APPLY TO TRAFFIC**  
13 **EXCHANGED INDIRECTLY BY A CMRS PROVIDER AND AN ICO?**  
14

15 **Q. IS MR. WATKINS' TESTIMONY ON THIS ISSUE CONSISTENT WITH**  
16 **APPLICABLE FCC REGULATIONS?**

17 A. No. Mr. Watkins claims:

18 "While a CMRS provider may utilize the dedicated facilities of  
19 another carrier to establish the interconnection point on the  
20 network of the ICO pursuant to the Subpart H rules, it does not  
21 relieve the CMRS provider from establishing the interconnection  
22 'between the two carriers' for the framework of Subpart H to  
23 apply"  
24

25 As with much of Mr. Watkins' testimony, this sounds to me like double-talk. Mr.  
26 Watkins first says that indirect interconnection is permitted under the FCC rules,  
27 but then he says that direct interconnection is required "for the framework" of the  
28 rules to apply. This is nonsense. The rules either allow indirect interconnection  
29 or they don't. Clearly, they do, as my direct testimony discusses in detail.

1 Moreover, as discussed above, in overruling the ICOs' Motion to Dismiss, the  
2 Hearing Officer has already decided this issue. The ICOs claimed that they could  
3 not be required to arbitrate an agreement for indirect interconnection, because  
4 such is not required by the FCC rules. The Hearing Officer disagreed and  
5 overruled the motion.

6  
7 **A. HAVE ANY OF THE ICOS FILED INTERCONNECTION AGREEMENTS**  
8 **WITH A CMRS PROVIDER THAT REQUIRES COMPENSATION TO BE**  
9 **PAID FOR INDIRECT INTERCONNECTION?**

10 A. Yes. In TRA Docket 02-00328, CenturyTel of Claiborne, Inc. filed an  
11 interconnection agreement with Tennessee RSA No. 3, L.P. d/b/a/ Eloqui  
12 Wireless. A copy of that agreement is attached to my testimony as Exhibit E.  
13 Section 5.3 of that agreement provides:

14 "Traffic that originates on either Party's network and terminates on  
15 the other Parties' [sic] network via a third party Tandem Switch  
16 will be charged at the Local Network usage rates set forth in  
17 Section 1(A) of Attachment I."  
18  
19

20 **Q. HAVE ANY OTHER ICOS ENTERED INTO INTERCONNECTION**  
21 **AGREEMENTS REQUIRING THAT RECIPROCAL COMPENSATION**  
22 **PRINCIPLES APPLY TO THE EXCHANGE OF INDIRECT TRAFFIC?**

23 A. Yes. As I discussed above, Concord Telephone Exchange, Inc, Tennessee  
24 Telephone Company, Humphreys County Telephone Company and Tellico  
25 Telephone Company, Inc. (the TDS companies) have filed interconnection  
26 agreements with NewSouth Communications (Docket 04-00081, Exhibit B

hereto), US LEC of Tennessee (Docket 03-00415, Exhibit C hereto), and XO Tennessee (Docket 03-00568, Exhibit D hereto). Those three contracts, in Section 5.1 of Appendix Reciprocal Compensation, specifically allow for the exchange of indirect traffic:

"Where the Parties utilize Indirect Interconnection via third party tandems for the exchange of traffic between their respective networks, each Party shall be responsible for the message recording required to produce accurate bills, or may utilize records provided by the tandem operator to invoice for traffic terminating on its network."

**Q. WHAT DO THE CONTRACTUAL PROVISIONS CITED ABOVE DEMONSTRATE?**

A. First, these contractual provisions demonstrate that BellSouth does not need to be a party to an interconnection agreement between an ICO and a CMRS Provider that involves indirect interconnection. Second, they demonstrate that indirect interconnection is common throughout the industry and does not involve any technical or logistical difficulties.

**Q. WHAT IS YOUR RECOMMENDATION REGARDING ISSUE 2?**

A. The TRA should rule that reciprocal compensation principles apply to traffic exchanged indirectly through a BellSouth tandem.

**ISSUE 8: WHAT IS THE APPROPRIATE PRICING METHODOLOGY FOR ESTABLISHING A RECIPROCAL COMPENSATION RATE FOR THE EXCHANGE OF INDIRECT TRAFFIC?**



1   **Q.    ARE THE RATES PROPOSED IN ATTACHMENT E TO MR. WATKINS'**  
2       **TESTIMONY APPROPRIATE TO RECOVER TRANSPORT AND**  
3       **TERMINATION CHARGES?**

4    A.   No. As Mr. Watkins himself admits on page 35, the rates proposed in Attachment  
5       E to his testimony are the ICOs' interstate switched access rates. Apart from the  
6       problems created by the ICOs' refusal to provide cost support for those rates (as  
7       discussed above and in my direct testimony), access rates are never appropriate  
8       for recovering transport and termination charges for local traffic. The CMRS  
9       Providers' expert witness, Mr. Craig Conwell, discusses this subject in depth. I  
10      would like to focus on specific FCC regulations that provide:

11                "Neither the interstate access charges described in part 69 of this  
12                chapter nor comparable intrastate access charges shall be assessed  
13                by an incumbent LEC on purchasers of elements that offer  
14                telephone exchange or exchange access services." 47 CFR §  
15                51.515.

16  
17      As discussed in my direct testimony, the ICOs' rates for transport and termination  
18      must be based on "the forward-looking economic costs of such offerings, using a  
19      cost study pursuant to §§ 51.505 and 51.511." (47 CFR § 51.705(a)(1)).  
20      Importantly, 47 CFR § 51,505(d)(1) states:

21                "(d) Factors that may not be considered. The following factors  
22                shall not be considered in a calculation of the forward-looking  
23                economic cost of an element:

24  
25                (1) Embedded costs. Embedded costs are the costs that the  
26                incumbent LEC incurred in the past and that are recorded in the  
27                incumbent LEC's books of accounts."

28  
29      Embedded (i.e., historical) costs are included with access rate calculations but not  
30      in transport and termination rates, which are based on "forward-looking"

1 principles. This is a primary reason why a company's transport and termination  
2 rates are usually less than its switched access rates.

3  
4 If the rates proposed by Mr. Watkins are in fact the ICOs' interstate switched  
5 access rates, then they would include embedded costs and thus would not be  
6 appropriate for the ICOs' transport and termination rates.

7  
8 **Q. YOUR DIRECT TESTIMONY INDICATES THAT BILL-AND-KEEP IS**  
9 **THE APPROPRIATE COMPENSATION METHOD TO APPLY TO THE**  
10 **ICOS BECAUSE OF THEIR FAILURE TO PROVIDE COST DATA.**  
11 **HAVE ANY OF THE ICOS ENTERED INTO BILL-AND-KEEP**  
12 **AGREEMENTS FILED WITH THE TRA?**

13 A. Yes. The interconnection agreements between the TDS companies and  
14 NewSouth Communications (Docket 04-00081, Exhibit B hereto), US LEC of  
15 Tennessee (Docket 03-00415, Exhibit C hereto) and XO Tennessee (Docket 03-  
16 00568, Exhibit D hereto) all contain the following language in Section 4 of  
17 Appendix Reciprocal Compensation:

18 "Based on the assumption that the Local Traffic exchanged by the  
19 Parties will be roughly balanced (i.e., neither Party is terminating  
20 more than sixty (60) percent of the Parties' total terminated  
21 minutes for Local Traffic), the Parties shall initially terminate each  
22 other's Local Traffic on a Bill and Keep basis."  
23  
24  
25

1   **Q.    COULD THE ABOVE PROVISION BE INCORPORATED INTO THE**  
2       **INTERCONNECTION AGREEMENTS BETWEEN THE ICOS AND THE**  
3       **CMRS PROVIDERS?**

4    A.    Yes. In fact, I would recommend it. Bill-and-Keep would then be the method of  
5        compensation unless and until the ICOs produced (1) an appropriate traffic study  
6        showing that one party was terminating more than 60% of the total traffic  
7        exchanged between the parties, and (2) an appropriate forward-looking cost study  
8        justifying a transport and termination rate.

9

10   **Q.   DO THE THREE CONTRACTS OF THE TDS COMPANIES, ATTACHED**  
11       **AS EXHIBITS B, C AND D TO YOUR TESTIMONY, CONTAIN A**  
12       **TRANSPORT AND TERMINATION RATE TO BE APPLIED IF ONE**  
13       **COMPANY IS TERMINATING MORE THAN SIXTY PERCENT OF THE**  
14       **TOTAL TRAFFIC?**

15   A.    Yes. All three contracts contain in Attachment A to Appendix Pricing a rate sheet  
16        establishing a transport and termination rate of \$0.00577 per minute of use.

17

18   **Q.   HOW DOES THIS RATE COMPARE TO THOSE CONTAINED IN**  
19       **ATTACHMENT E TO MR. WATKINS'S EXHIBIT?**

20   A.    Even though the rates contained in Attachment E to Mr. Watkins' testimony are  
21        interstate switched access rates and publicly available in the ICOs' tariffs, Mr.  
22        Watkins claims that the Attachment is privileged and confidential. To avoid  
23        having to create two versions of my testimony, I will not quote the Attachment E

1 rates in my rebuttal testimony. The TRA may note, however, that for each of the  
2 four TDS ICOs, the interstate switched access rates in Attachment E are  
3 significantly higher than the transport and termination rates contained in the  
4 interconnection agreements filed with the TRA.

5  
6 **Q. WHAT ACCOUNTS FOR THIS DIFFERENCE?**

7 A. This is the difference I would expect to see between transport and termination  
8 rates and switched access rates.

9  
10 **Q. ARE THE TRANSPORT AND TERMINATION RATES CONTAINED IN**  
11 **THE THREE TDS INTERCONNECTION AGREEMENTS SUPPORTED**  
12 **BY FORWARD-LOOKING COST STUDIES?**

13 A. I don't know. The CMRS Providers have requested any and all such studies, and  
14 the ICOs have produced none. If the TDS companies do, in fact, possess such  
15 studies, then they have failed to comply with the CMRS Providers' discovery  
16 requests.

17  
18 **Q. HOW DO THE TRANSPORT AND TERMINATION RATES**  
19 **CONTAINED IN THE THREE TDS INTERCONNECTION**  
20 **AGREEMENTS COMPARE TO THE BENCHMARK RATE**  
21 **DEVELOPED BY MR. CONWELL, THE CMRS PROVIDERS' EXPERT**  
22 **WITNESS?**

1 A. Mr. Conwell develops a benchmark of \$0.0066 per minute of use (without tandem  
2 switching) for the ICOs. The rate in the three TDS Interconnection Agreements  
3 (\$0.0057) is obviously very close, indicating that such rate is likely an accurate  
4 reflection of the TDS Companies' forward-looking transport and termination  
5 costs. Until the ICOs produce appropriate cost studies, however, neither the  
6 CMRS Providers nor the TRA can know for certain.

7  
8 **Q. WHAT IS YOUR RECOMMENDATION REGARDING ISSUE 8?**

9 A. I recommend that the TRA adopt the above-quoted provision from the contracts  
10 of the four TDS companies. I further recommend, as I stated in my direct  
11 testimony, that the ICOs not be allowed to establish transport and terminations  
12 rates until they produce (1) appropriate traffic studies showing that one company  
13 is terminating more than sixty percent of the total traffic, and (2) appropriate  
14 forward-looking cost studies consistent with FCC regulations.

15

16 **ISSUE 9: ASSUMING THE TRA DOES NOT ADOPT BILL AND KEEP AS THE**  
17 **COMPENSATION MECHANISM, SHOULD THE PARTIES AGREE ON A**  
18 **FACTOR TO USE AS A PROXY FOR THE MOBILE-TO-LAND AND LAND-**  
19 **TO-MOBILE TRAFFIC BALANCE IF THE CMRS PROVIDER DOES NOT**  
20 **MEASURE TRAFFIC?**

21

22 **Q. DO YOU AGREE WITH MR. WATKINS' ASSERTION, ON PAGE 38,**  
23 **THAT "IT DOES NOT MAKE SENSE THAT THE PARTIES WOULD**  
24 **NEED TO UTILIZE FACTORS"?**

25 A. No. As I discussed in my direct testimony, some of the CMRS Providers do not  
26 have the capability of measuring ICO traffic on a real-time basis. Those carriers,

1           therefore, must rely on traffic factors for billing purposes. Cingular Wireless is  
2           such a company. I negotiate virtually every interconnection agreement between  
3           Cingular and landline telephone companies. Every agreement I have ever  
4           negotiated (except for those involving Bill-and-Keep) contains a traffic ratio  
5           factor.

6  
7   **Q.   WHAT IS YOUR RECOMMENDATION FOR ISSUE 9?**

8   A.   Because Bill-and-Keep is the appropriate method of compensation between the  
9           ICOs and CMRS Providers, the TRA need not adopt a traffic factor. Instead, the  
10          interconnection agreement can contain the same language as is contained in  
11          Section 4.3 of Appendix Pricing in the three TDS contracts attached hereto as  
12          Exhibits B, C and D:

13                 "Either Party may request that a traffic study be performed no  
14                 more frequently than once a quarter. Should such traffic study  
15                 indicate, in the aggregate, that the traffic is no longer in balance,  
16                 either Party may notify the other of their [sic] intent to bill for  
17                 Local Traffic termination pursuant to the rates set forth in  
18                 Appendix Pricing of this Agreement and continue for the duration  
19                 of the Term of this Agreement unless otherwise agreed by the  
20                 Parties. A minimum of thirty (30) days written notice is required  
21                 prior to the first billing of mutual compensation."

22  
23          Such a provision, of course, should be subject to dispute resolution--in the event  
24          that a traffic study is challenged. Assuming, however, that the ICO produces a  
25          valid traffic study, then the traffic factor would be set at the percentage shown in  
26          the study.

27  
28   **ISSUE 10: ASSUMING THE TRA DOES NOT ADOPT BILL AND KEEP AS**  
29   **THE COMPENSATION MECHANISM FOR ALL TRAFFIC EXCHANGED AND**

1       **IF A CMRS PROVIDER AND AN ICO ARE EXCHANGING ONLY A DE**  
2       **MINIMIS AMOUNT OF TRAFFIC, SHOULD THEY COMPENSATE EACH**  
3       **OTHER ON A BILL AND KEEP BASIS? IF SO, WHAT LEVEL OF TRAFFIC**  
4       **SHOULD BE CONSIDERED DE MINIMIS?**  
5

6       **Q.     DO YOU AGREE WITH MR. WATKINS' ASSERTION (P. 39) THAT**  
7       **"THIS ISSUE IS FRIVOLOUS"?**  
8

9       **A.     Absolutely not. As I discussed in my direct testimony, because Cingular**  
10       exchanges traffic with so many independent telephone companies throughout the  
11       country, the cost of measuring traffic, then producing and exchanging bills, and  
12       then issuing payment, can be quite large. When the cost of the traffic exchanged  
13       is smaller than the cost to produce bills, Bill-and-Keep is the only reasonable  
14       alternative.  
15

16       **Q.     ON PAGE 39, MR. WATKINS STATES: " . . . NOR IS THERE ANY**  
17       **ESTABLISHED REQUIREMENT OR STATUTORY RIGHT TO TREAT**  
18       **ANY AMOUNT OF TRAFFIC AS "DE MINIMIS." ASSUMING THIS**  
19       **STATEMENT TO BE CORRECT, DOES THAT IMPOSE A BARRIER TO**  
20       **DECIDING THIS ISSUE IN ARBITRATION?**

21       **A.     No. The FCC has explained the nature of the arbitration process:**

22               ". . . [T]he 1996 Act provides that, if the parties fail to reach  
23               agreement on all issues, either party may seek arbitration before a  
24               state commission. The state commission will arbitrate individual  
25               issues specified by the parties, or conceivably may be asked to  
26               arbitrate the entire agreement. In the event that a state commission  
27               must act as arbitrator, it will need to ensure that the arbitrated  
28               agreement is consistent with the Commission's rules.<sup>2</sup>  
29

---

<sup>2</sup> *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, First Report and Order, 11 FCC 15499, FCC 96-325, ¶ 134 (1996)

1 This does not mean that the TRA is without authority to decide issues that have  
2 not been the subject of FCC regulations. It rather means that all such regulations  
3 must be followed. If an arbitration involves an issue--such a de minimis traffic--  
4 that the FCC has not ruled upon, the TRA is free to apply its own standards, as  
5 long as those standards are not inconsistent with the Act and other FCC  
6 regulations

7  
8 **Q. WHAT IS YOUR RECOMMENDATION FOR ISSUE 10?**

9 A. The "de minimis" traffic issue is of serious concern to Cingular and the  
10 other CMRS Providers. The standard proposed by Cingular--50,000 minutes of  
11 use for a one month period--is reasonable. Moreover, the ICOs have not  
12 produced any testimony to rebut it--beyond Mr. Watkins' mistaken assertion that  
13 the issue is trivial. I therefore recommend that the proposed standard of the  
14 CMRS Providers be adopted--to be applied if and when the ICOs produce  
15 appropriate traffic and cost studies demonstrating a need for anything other than  
16 Bill-and-Keep.

17  
18 **ISSUE 11: SHOULD THE PARTIES ESTABLISH A FACTOR TO**  
19 **DELINEATE WHAT PERCENTAGE OF TRAFFIC IS INTERMTA AND**  
20 **THEREBY SUBJECT TO ACCESS RATES? IF SO, WHAT SHOULD THE**  
21 **FACTOR BE?**

22  
23 **Q. HAVE ANY OF THE ICOS ENTERED INTO AN INTERCONNECTION**  
24 **AGREEMENT CONTAINING AN INTERMTA FACTOR?**



1 A. Yes. CenturyTel of Claiborne has entered into an interconnection agreement with  
2 Eloqui Wireless (Docket 02-00328, Exhibit E hereto) that states in Attachment I--  
3 Rates:

4 "PLU: 100%: The Percent Local Usage (PLU) Factor describes  
5 the portion of Local Traffic exchanged between the Parties that  
6 both originated and terminated within the same local call area  
7 (MTA). This factor applies to both originating and terminating  
8 MOUs."  
9

10  
11  
12 **Q. WHY WOULD THE CENTURYTEL OF CLAIBRONE CONTRACT**  
13 **CONTAIN SUCH A PROVISION?**

14  
15 A. Actual measurement of interMTA traffic is very difficult because of the mobile  
16 nature of wireless traffic and the lack of data bases capturing the exchange/MTA  
17 and cell-site/MTA relationships. Compensable interMTA traffic is generally  
18 believed to constitute a very small portion (one or two percent) of all traffic  
19 exchanged between a wireless and wireline carrier. Cingular's interconnection  
20 agreements with wireline carriers (those not requiring Bill-and-Keep) generally  
21 contain an interMTA factor in that range. The 100% PLU factor (meaning a 0%  
22 interMTA factor) in the CenturyTel of Claiborne contract is not, however,  
23 unprecedented.  
24

25 **Q. WHAT IS YOUR RECOMMENDATION FOR ISSUE 11?**

26 A. The CMRS Providers' proposed contract would have the parties exchange all  
27 interMTA traffic on a Bill-and-Keep basis. This is consistent with the general  
28 application of Bill-and-Keep principles in this case.  
29

1       **ICO ISSUE 6: ACCESS CHARGES APPLY TO BOTH THE ORIGINATION**  
2       **AND TERMINATION OF INTERMTA TRAFFIC ON THE NETWORKS OF**  
3       **THE ICOS.**

4

5       **Q.     WHAT DOES MR. WATKINS' SAY ABOUT ICO ISSUE 6?**

6

7       A.     Nothing. Mr. Watkins does not address the issue.

8

9       **Q.     WHAT IS YOUR RECOMMENDATION FOR ICO ISSUE 6?**

10      A.     The CMRS Providers recommend that Bill-and-Keep principles be applied to all  
11            traffic exchanged between the CMRS Providers and the ICOs. If Bill-and-Keep  
12            principles are adopted, then ICO Issue 6 is moot.

13

14      **Q.     DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

15      A.     Yes.

**EXHIBIT A**

**to**

**REBUTTAL TESTIMONY OF WILLIAM H. BROWN  
ON BEHALF OF  
BELLSOUTH MOBILITY LLC, BELLSOUTH PERSONAL  
COMMUNICATIONS LLC AND CHATTANOOGA MSA LIMITED  
PARTNERSHIP, COLLECTIVELY D/B/A CINGULAR WIRELESS**

CARRIER ACCESS USAGE  
NORTH AMERICAN ORIGINATED AND TERMINATED  
MESSAGE TELEPHONE SERVICE

Record Name

11

Category

01

Group

01

Record Type

Pos		Field Description		Char
1	Category	Record Identification	X	
2				
3				
4	Group	Date Of Record	9	
5	Record Type			
6	Year			
7	Month	Day	9	
8	Day			
9				
10	From Number Length			9
11	NPA	From Number	9	
12				
13				
14	NXX	Line Number	9	
15				
16				
17	Overflow Digits			9
18	To Number Length			9
19	NPA	To Number	9	
20				
21				
22	NXX	Line Number	9	
23				
24				
25	Originating / Terminating ID			9
26	BSA / Feature Group D Trunk Group Number			9
27	Reserved			9
28	Carrier Identification			9
29	Carrier Access Method			9
30	Routing Method			9
31	Dialing Method			9
32	ANI			9
33	NCTA			9
34	Hr	Connect Time	9	
35				
36				
37	Min	Billable Or Reported Time	9	
38				
39				
40	Sec	1/10		
41				
42				

Pos	Field Description		Char
68	Method Of Recording		9
69			
70	*Reserved		9
71			
72	From RAO		X
73			
74			
75	Local Company Information	Cust Bill Format	9
76		Conference Leg Number	9
77			
78	Type of Access Service		9
79			
80	*Reserved		9
81	Method Of Signaling		9
82	1	Indicators	9
83	2		
84	3		
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102	Operator Unit		9
103			
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105	Recording Point Identification (AMA)		
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109			
110	CABS Billing RAO		X
111			
112			
113	21	Indicators	9
114	22		
115	23		
116	24		
117	25		
118	26		
119	27		
120	28		
121	29		
122	30		
123	NPA	BSA / Feature Group A Access Number	9
124			
125			
126	NXX		
127			
128			
129	Line Number		
130			
131			
132			
133	Reserved for Local Company Use		9
134			

Pos	Field Description		Char
135	Reserved for Local Company Use (continued)		9
136			
137	Reserved		9
138			
139	NECA Company Code		X
140			
141			
142	BSA / Feature Group D Call Event Status		9
143			
144	Reserved		9
145			
146	BSA / Feature Group ID Code		X
147			
148	Library Code		X
149	Settlement Code		X
150	Min	Conversation Time	9
151			
152			
153			
154	Sec		
155			
156	1/10		
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160			
161	Originating LRN		9
162			
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167			
168	Originating OCN		X
169			
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171	Originating LRN Source Indicator		9
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176	Terminating LRN		9
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183	Terminating OCN		X
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186	Terminating LRN Source Indicator		9
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Field Characteristic

9 = Numeric  
X = Alphanumeric  
S 9 = Signed Numeric

↓ = Continued on Next Column  
↑ = Continued on Next Column

### **CABS Billing RAO (Revenue Accounting Office)**

A three-position alphanumeric field in Category 11 (CABS) records that identifies the Revenue Accounting Office Code responsible for billing the Carrier Access data. On control records, it contains the CABS RAO to which the pack is being directed for processing or billing. This field must be populated when Category 11 records will be exchanged between companies.

### **NECA Company Code**

A four-position alphanumeric field which reflects the state level Exchange Carrier (EC) company code as displayed in the National Exchange Carrier Association (NECA) 4 tariff. This field is to be used to identify the company which performed a specific function, such as special operator services or queries of Intelligent Network databases.

### **Originating OCN (Operating Company Number)**

A four-position alphanumeric field that identifies an originating entity (e.g. a local exchange carrier, a wireless carrier, etc.) This number can be obtained from the Operating Telephone Company Numbering Plan Guide (OTCNPG) or the Bellcore Rating Administrative Data System (BRADS) NPA/NXX/V&H Coordinate Data File.

### **Terminating OCN (Operating Company Number)**

A four-position alphanumeric field that indicates a terminating entity (e.g. a local exchange carrier, wireless carrier, etc.) This number can be obtained from the Operating Telephone Company Numbering Plan Guide (OTCNPG) or the Bellcore Rating Administrative Data System (BRADS) NPA/NXX/V&H Coordinate Data File.

**EXHIBIT B**

to

**REBUTTAL TESTIMONY OF WILLIAM H. BROWN  
ON BEHALF OF  
BELLSOUTH MOBILITY LLC, BELLSOUTH PERSONAL  
COMMUNICATIONS LLC AND CHATTANOOGA MSA LIMITED  
PARTNERSHIP, COLLECTIVELY D/B/A CINGULAR WIRELESS**



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March 4, 2004

**Via Overnight Delivery**

Ms Deborah Taylor Tate, Chairman  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37423-0505

Re *Petition for Approval of the Interconnection Agreement Between TDS Telecom and NewSouth Communications Corp. Pursuant to Sections 251 and 252 of the Telecommunications Act of 1996,*  
Docket # DA-00081

Dear Chairman Tate

Enclosed please find the original and 13 copies of the Interconnection Agreement between NewSouth Communications Corp and TDS Telecom submitted for Tennessee Regulatory Authority approval pursuant to Section 252(e) of the Telecommunications Act of 1996

Should you have any questions regarding this filing, you may contact me at (865) 671-4758

Sincerely,

Linda Lowrance  
Manager- Interconnection

Enclosures

cc Jake Jennings, NewSouth Communications (w/o enclosures)  
Bruce Mottern (w/o enclosures)

PO BOX 22995  
KNOXVILLE, TN 37933-0995  
9737 COGDILL ROAD, SUITE 230  
KNOXVILLE, TN 37932  
TELEPHONE 865 966 4700  
FAX 865 675 3881

## **INTERCONNECTION AGREEMENT**

This Agreement is made effective on the 1<sup>st</sup> day of March, 2004, between Concord Telephone Exchange, Inc., Tennessee Telephone Company, Humphreys County Telephone Company, and Tellico Telephone Company, Inc. each as corporations organized under the laws of the State of Tennessee, (collectively, "TDS TELECOM") and NewSouth Communications Corp., a Delaware corporation, with its principal place of business at Two North Main Street, Greenville, South Carolina 29601("NEWSOUTH").

WHEREAS, the Telecommunications Act of 1996 (the "Act") was signed into law on February 8, 1996; and

WHEREAS, section 252(i) of the Act requires TDS TELECOM to make available any interconnection, service, or network element provided under an agreement approved by the appropriate state regulatory body to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the agreement in its entirety; and

WHEREAS, NEWSOUTH has requested that TDS TELECOM make available the interconnection agreement in its entirety executed between TDS TELECOM and US LEC of Tennessee Inc. ("US LEC") dated June 13, 2003.

NOW, THEREFORE, in consideration of the promises and mutual covenants of this Agreement NEWSOUTH and TDS TELECOM hereby agree as follows:

1. NEWSOUTH and TDS TELECOM shall adopt in its entirety the US LEC Interconnection Agreement dated June 13, 2003 and any and all amendments to said agreement executed and approved by the appropriate state regulatory commission as of the date of the execution of this Agreement. The US LEC Interconnection Agreement and all amendments are attached hereto as Exhibit 1 and incorporated herein by this reference.
2. In the event that NEWSOUTH consists of two (2) or more separate entities as set forth in the preamble to this Agreement, all such entities shall be jointly and severally liable for the obligations of NEWSOUTH under this Agreement.
3. The term of this Agreement shall be from the effective date as set forth above and shall expire as set forth in Section 5 of the US LEC Interconnection Agreement. For purposes of determining the expiration date of US LEC's Interconnection Agreement the effective date shall be September 8, 2003.
4. TDS TELECOM shall provide interstate Special Access High Capacity Service pursuant to the terms and conditions set forth in National Exchange Carrier Association (NECA) Tariff FCC No 5 as modified from time to time. Selected rates in effect on the effective date of this Agreement are included in the table



**TDS TELECOM- US LEC**  
**Contracted Interconnection Rates**  
**Tennessee**

Appendix Pricing  
Attachment A

TDS TELECOM-US LEC Tennessee		
	Monthly Recurring	Non Recurring
<b><u>Local Service Non-Recurring Charges</u></b>		
Local Service Order (LSR)		\$ 53.38
Miscellaneous Testing and other Additional Labor- each half hour or fraction thereof		
Basic Time per technician		\$ 23.33
Overtime per technician		\$ 34.89
Premium Time per technician		\$ 46.65
<b><u>RECIPROCAL COMPENSATION</u></b>		
<b><u>Local Traffic Termination</u></b>		
Per Terminating MOU		\$ 0.005770
<b><u>INTERIM NUMBER PORTABILITY</u></b>		
Remote call forwarding per number	\$ 2.30	
<b><u>WHITE PAGES</u></b>		
<b><u>TDS TELECOM Directory</u></b>		
Per Book copy Delivered in Bulk to CLEC- Subsequent Order(s) only *5% discount on orders over 500		\$5.00*
Per Single Sided Informational Page (optional purchase)		\$100.00
Additional listing services- per listing (optional purchase)		See Applicable Tariff

## **APPENDIX RECIPROCAL COMPENSATION**

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**APPENDIX RECIPROCAL COMPENSATION  
(Mutual Compensation for Transport, Termination, and Transiting)**

**1. INTRODUCTION**

- 1.1 This Appendix sets forth terms and conditions for Reciprocal Compensation provided by TDS TELECOM and US LEC.

**2. TRANSMISSION AND ROUTING OF TELEPHONE EXCHANGE SERVICE TRAFFIC RELEVANT TO COMPENSATION**

- 2.1 The Telecommunications traffic exchanged between US LEC and TDS TELECOM will be classified as Local Traffic, Internet Traffic, intraLATA Toll Traffic, or interLATA Toll Traffic. Local Traffic is defined in Section 2.5.

Reciprocal compensation applies for transport and termination of Local Traffic. When an End User originates a call which terminates to an End User physically located in the same local exchange area and served on the other Party's switch, the originating Party shall compensate the terminating Party for the transport and termination of Local Traffic in accordance with Section 4 of this Appendix.

When US LEC provides service in a LATA, the Parties' obligation for reciprocal compensation to each other shall commence on the latter of either the effective date of this Interconnection Agreement or the date that traffic first passed through the Parties networks.

The compensation arrangements set forth in this Appendix are not applicable to Exchange Access traffic or any other type of traffic found to be exempt from reciprocal compensation by the FCC or the Commission. All Exchange Access traffic and intraLATA Toll Traffic shall continue to be governed by the terms and conditions of applicable federal and state access tariffs. Optional calling plans, where applicable, will be classified as toll traffic.

"Local Traffic", for purposes of intercarrier compensation, is traffic where all calls are within the same common local and common mandatory local calling area, i.e., within the same or different TDS TELECOM Exchange(s) that participate in the same common local mandatory local calling area approved by the applicable state Commission. Local Traffic must actually originate and actually terminate to parties physically located within the same common local or common mandatory local calling area. Local Traffic does not include optional calling plans (i.e. optional rate packages that permit the end user to choose a local calling scope beyond their basic local calling area for an additional fee).

- 2.5.1 Notwithstanding any other provision of the Agreement, Local Traffic does not include any Internet Traffic. Subject to the provisions set forth in Section 4 of the General Terms and Conditions, the Parties' rights and

obligations with respect to any intercarrier compensation that may be due in connection with their exchange of telecommunications traffic delivered to Internet Service Providers (ISPs) ("Internet Traffic") shall be governed by the Order on Remand and Report and Order, *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Intercarrier Compensation for ISP Bound Traffic*, FCC 01-131, CC Docket Nos. 96-98 and 99-68.

- 2.6 Reciprocal Compensation applies to Local Traffic terminated by either Party's switch.

### 3. RESPONSIBILITIES OF THE PARTIES

- 3.1 Each Party to this Appendix will be responsible for the accuracy and quality of its data as submitted to the respective Parties involved.
- 3.2 Where SS7 connections exist, each Party will include in the information transmitted to the other for each call being terminated on the other's network, where available, the original and true Calling Party Number (CPN) and the Originating Local Routing Number (LRN).

If one Party is passing CPN and LRN, but the other Party is not properly receiving information, the Parties will work cooperatively to correct the problem.

### 4. LOCAL TRAFFIC COMPENSATION

- 4 The rates, terms, conditions contained herein apply only to the termination of Local Traffic on the Parties' networks. All applicable rate elements can be found in Appendix PRICING.

Based on the assumption that the Local Traffic exchanged by the Parties will be roughly balanced (i.e., neither Party is terminating more than sixty (60) percent of the Parties' total terminated minutes for Local Traffic), the Parties shall initially terminate each other's Local Traffic on a Bill and Keep basis. "Bill and Keep" shall mean that the Party originating the traffic has no obligation to pay terminating charges to the other Party for terminating the traffic, regardless of any charges the originating Party may assess its End User(s).

- 4.3 Either Party may request that a traffic study be performed no more frequently than once a quarter. Should such traffic study indicate, in the aggregate, that the traffic is no longer in balance, either Party may notify the other of their intent to bill for Local Traffic termination pursuant to the rates set forth in Appendix PRICING of this Agreement and continue for the duration of the Term of this Agreement unless otherwise agreed by the Parties. A minimum of thirty (30) days written notice is required prior to the first billing of mutual compensation.

4.4 Local Traffic Compensation Rate

The End Office Termination rate applies to Local Traffic that is delivered by a Party for termination by the other Party.

5. **BILLING FOR MUTUAL COMPENSATION**

5.1 Indirect Interconnection

Where the Parties utilize Indirect Interconnection via third party tandems for the exchange of traffic between their respective networks, each Party shall be responsible for the message recording required to produce accurate bills, or may utilize records provided by the tandem operator to invoice for traffic terminating on its network. The Parties agree to accept the billing records from the tandem operator as an accurate statement of traffic exchanged between the Parties.

To calculate intrastate toll access charges, each Party shall provide to the other, within 20 calendar days after the end of each quarter, a PLU (Percent Local Usage) factor. Each company should calculate the PLU factor on a state basis using their originating IntraLATA minutes of use. The Parties shall provide a separate PLU for each TDS TELECOM operating company covered under this Agreement. The percentage of originating Local Traffic plus Internet Traffic to total intrastate (Local Traffic, Internet Traffic, and intraLATA toll) originating traffic would represent the PLU factor.

The originating Party shall be responsible for payment of any transit charges (including tandem switching) assessed by the third party LEC for use of the third party LEC's tandem.

5.2 Direct Interconnection

Where the Parties utilize Direct Interconnection for the exchange of traffic between their respective networks, each Party will calculate terminating interconnection minutes of use based on standard Automatic Message Accounting (AMA) recordings made within each Party's network. These recordings are the basis for each Party to generate bills to the other Party. For purposes of reciprocal compensation only, measurement of minutes of use over Local Interconnection Trunk Groups shall be in actual conversation seconds. The total conversation seconds over each individual Local Interconnection Trunk Group will be totaled for the entire monthly bill and then rounded to the next whole minute.

- 5.2.2 Notwithstanding the foregoing, where the terminating company has message recording technology that identifies the traffic terminated, such information, in lieu of the PLU factor, shall at the Parties option be utilized to determine the appropriate local usage compensation to be paid. Where SS7 connections exist between TDS TELECOM and US LEC, if the percentage of calls passed without CPN and LRN is less than one hundred percent (100%), all calls exchanged without CPN information and LRN will be billed as either Local Traffic or intraLATA Toll Traffic in direct proportion to the minutes of use (MOU) of calls exchanged with CPN information.
- 5.3 Audits of usage associated with Reciprocal Compensation shall be performed as specified in § 38 of the General Terms and Conditions of this Agreement.
- 5.4 The Parties shall be governed by applicable state and federal rules, practices, and procedures regarding the provision and recording of billing records. Neither Party shall bill for records older than one hundred eighty (180) days.

**6. APPLICABILITY OF OTHER RATES TERMS AND CONDITIONS**

- 6.1 Every interconnection and service provided hereunder shall be subject to all rates, terms and conditions contained in this Agreement which are legitimately related to such interconnection or service.

**EXHIBIT C**

to

**REBUTTAL TESTIMONY OF WILLIAM H. BROWN  
ON BEHALF OF  
BELLSOUTH MOBILITY LLC, BELLSOUTH PERSONAL  
COMMUNICATIONS LLC AND CHATTANOOGA MSA LIMITED  
PARTNERSHIP, COLLECTIVELY D/B/A CINGULAR WIRELESS**



R. DALE GRIMES  
TEL (615) 742-6244  
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dgrimes@bassberry.com

**BASS, BERRY & SIMS PLC**

A PROFESSIONAL LIMITED LIABILITY COMPANY

ATTORNEYS AT LAW

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SARA KYLE, COMMISSIONER  
TN REGULATORY AUTHORITY

**VIA HAND DELIVERY**

Ms. Sara Kyle, Chairman  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37243

**Re: Notice of US LEC Corp. "Bona Fide Request" for An Interconnection Agreement with TDS Local Exchange Carriers Pursuant to 47 U.S.C. § 251, Docket # 00-00026**

Dear Chairman Kyle:

Enclosed please find the original and 13 copies of the Interconnection Agreement under §§ 251 and 252 of the Telecommunications Act of 1996 between TDS Telecom and US LEC of Tennessee, Inc. for filing in the above-referenced docket for the approval of the Tennessee Regulatory Authority. Also enclosed is an additional copy of the Interconnection Agreement, which I would appreciate your stamping as "filed" and returning to me by way of our courier.

Should you have any questions with respect to this filing, please do not hesitate to contact me at the telephone number listed above.

Very truly yours,



R. Dale Grimes

RDG/da  
Enclosures

cc: Henry Walker, Esq. (w/encl.)  
Mr. Bruce H. Mottern (w/encl.)

## **INTERCONNECTION AGREEMENT**

This Interconnection Agreement - under Sections 251 and 252 of the Telecommunications Act of 1996 ("Agreement") is dated as of the date last signed by and between Concord Telephone Exchange, Inc., Tennessee Telephone Company, Humphreys County Telephone Company, and Tellico Telephone Company, Inc. each as corporations organized under the laws of the State of Tennessee, (collectively, "TDS TELECOM") and US LEC of Tennessee Inc., ("US LEC"), a Delaware corporation, with its principal place of business at 6801 Morrison Blvd., Charlotte, NC 28211.

**WHEREAS**, the Parties desire to interconnect their networks at mutually agreed upon points of interconnection to provide, directly or indirectly, Telephone Exchange Services and Exchange Access to residential and/or business End Users in the state of Tennessee; and

**WHEREAS**, the Parties are entering into this Agreement to set forth the respective obligations of the Parties and the terms and conditions under which the Parties will interconnect their networks and facilities and provide to each other services as required by Sections 251(a) and (b) of the Telecommunications Act of 1996 as specifically set forth herein.

**NOW, THEREFORE**, in consideration of the premises and the mutual covenants of this Agreement US LEC and TDS TELECOM hereby agree as follows:

This Agreement is composed of General Terms and Conditions, which are set forth below, together with certain Appendices, Schedules, Exhibits and Addenda which immediately follow this Agreement, all of which are hereby incorporated in this Agreement by this reference and constitute a part of this Agreement.

## **GENERAL TERMS AND CONDITIONS**

### **1. INTRODUCTION AND SCOPE OF AGREEMENT**

- 1.1 Pursuant to Sections 251(a) and (b) of the Telecommunications Act of 1996 ("Act"), this Agreement sets forth the terms and conditions for the interconnection of US LEC's network to TDS TELECOM's network, compensation for the transport and termination of telecommunications traffic between TDS TELECOM and US LEC, and the provision of Ancillary Functions by TDS TELECOM and US LEC.

**TDS TELECOM- US LEC  
Contracted Interconnection Rates  
Tennessee**

Appendix Pricing  
Attachment A

TDS TELECOM-US LEC Tennessee		
	Monthly Recurring	Non Recurring
<u>Local Service Non-Recurring Charges</u>		
Local Service Order (LSR)		\$ 53 36
Miscellaneous Testing and other Additional Labor- each half hour or fraction thereof		
Basic Time per technician		\$ 23 33
Overtime per technician		\$ 34 99
Premium Time per technician		\$ 46 65
<u>RECIPROCAL COMPENSATION</u>		
<u>Local Traffic Termination</u>		
Per Terminating MOU		\$ 0 005770
<u>INTERIM NUMBER PORTABILITY</u>		
Remote call forwarding per number	\$ 2 30	
<u>WHITE PAGES</u>		
<u>TDS TELECOM Directory</u>		
Per Book copy Delivered in Bulk to CLEC- Subsequent Order(s) only *5% discount on orders over 500		\$5 00*
Per Single Sided Informational Page (optional purchase)		\$100 00
Additional listing services- per listing (optional purchase)		See Applicable Tariff

# **APPENDIX RECIPROCAL COMPENSATION**

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**APPENDIX RECIPROCAL COMPENSATION  
(Mutual Compensation for Transport, Termination, and Transiting)**

**1. INTRODUCTION**

- 1.1 This Appendix sets forth terms and conditions for Reciprocal Compensation provided by TDS TELECOM and US LEC.

**2. TRANSMISSION AND ROUTING OF TELEPHONE EXCHANGE SERVICE TRAFFIC RELEVANT TO COMPENSATION**

- 2.1 The Telecommunications traffic exchanged between US LEC and TDS TELECOM will be classified as Local Traffic, Internet Traffic, intraLATA Toll Traffic, or interLATA Toll Traffic. Local Traffic is defined in Section 2.5.
- 2.2 Reciprocal compensation applies for transport and termination of Local Traffic. When an End User originates a call which terminates to an End User physically located in the same local exchange area and served on the other Party's switch, the originating Party shall compensate the terminating Party for the transport and termination of Local Traffic in accordance with Section 4 of this Appendix.
- 2.3 When US LEC provides service in a LATA, the Parties' obligation for reciprocal compensation to each other shall commence on the latter of either the effective date of this Interconnection Agreement or the date that traffic first passed through the Parties networks.
- 2.4 The compensation arrangements set forth in this Appendix are not applicable to Exchange Access traffic or any other type of traffic found to be exempt from reciprocal compensation by the FCC or the Commission. All Exchange Access traffic and intraLATA Toll Traffic shall continue to be governed by the terms and conditions of applicable federal and state access tariffs. Optional calling plans, where applicable, will be classified as toll traffic.
- 2.5 "Local Traffic", for purposes of intercarrier compensation, is traffic where all calls are within the same common local and common mandatory local calling area, i.e., within the same or different TDS TELECOM Exchange(s) that participate in the same common local mandatory local calling area approved by the applicable state Commission. Local Traffic must actually originate and actually terminate to parties physically located within the same common local or common mandatory local calling area. Local Traffic does not include optional calling plans (i.e. optional rate packages that permit the end user to choose a local calling scope beyond their basic local calling area for an additional fee).

- 2.5.1 Notwithstanding any other provision of the Agreement, Local Traffic does not include any Internet Traffic. Subject to the provisions set forth in Section 4 of the General Terms and Conditions, the Parties' rights and

obligations with respect to any intercarrier compensation that may be due in connection with their exchange of telecommunications traffic delivered to Internet Service Providers (ISPs) ("Internet Traffic") shall be governed by the Order on Remand and Report and Order, *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Intercarrier Compensation for ISP Bound Traffic*, FCC 01-131, CC Docket Nos. 96-98 and 99-68.

- 2.6 Reciprocal Compensation applies to Local Traffic terminated by either Party's switch.

### 3. RESPONSIBILITIES OF THE PARTIES

- 3.1 Each Party to this Appendix will be responsible for the accuracy and quality of its data as submitted to the respective Parties involved.
- 3.2 Where SS7 connections exist, each Party will include in the information transmitted to the other for each call being terminated on the other's network, where available, the original and true Calling Party Number (CPN) and the Originating Local Routing Number (LRN).
- 3.3 If one Party is passing CPN and LRN, but the other Party is not properly receiving information, the Parties will work cooperatively to correct the problem.

### 4. LOCAL TRAFFIC COMPENSATION

- 4.1 The rates, terms, conditions contained herein apply only to the termination of Local Traffic on the Parties' networks. All applicable rate elements can be found in Appendix PRICING.
- 4.2 Based on the assumption that the Local Traffic exchanged by the Parties will be roughly balanced (i.e., neither Party is terminating more than sixty (60) percent of the Parties' total terminated minutes for Local Traffic), the Parties shall initially terminate each other's Local Traffic on a Bill and Keep basis. "Bill and Keep" shall mean that the Party originating the traffic has no obligation to pay terminating charges to the other Party for terminating the traffic, regardless of any charges the originating Party may assess its End User(s).
- 4.3 Either Party may request that a traffic study be performed no more frequently than once a quarter. Should such traffic study indicate, in the aggregate, that the traffic is no longer in balance, either Party may notify the other of their intent to bill for Local Traffic termination pursuant to the rates set forth in Appendix PRICING of this Agreement and continue for the duration of the Term of this Agreement unless otherwise agreed by the Parties. A minimum of thirty (30) days written notice is required prior to the first billing of mutual compensation.

4.4 Local Traffic Compensation Rate

- 4.4.1 The End Office Termination rate applies to Local Traffic that is delivered by a Party for termination by the other Party.

5. **BILLING FOR MUTUAL COMPENSATION**

5.1 Indirect Interconnection

- 5.1.1 Where the Parties utilize Indirect Interconnection via third party tandems for the exchange of traffic between their respective networks, each Party shall be responsible for the message recording required to produce accurate bills, or may utilize records provided by the tandem operator to invoice for traffic terminating on its network. The Parties agree to accept the billing records from the tandem operator as an accurate statement of traffic exchanged between the Parties.
- 5.1.2 To calculate intrastate toll access charges, each Party shall provide to the other, within 20 calendar days after the end of each quarter, a PLU (Percent Local Usage) factor. Each company should calculate the PLU factor on a state basis using their originating IntraLATA minutes of use. The Parties shall provide a separate PLU for each TDS TELECOM operating company covered under this Agreement. The percentage of originating Local Traffic plus Internet Traffic to total intrastate (Local Traffic, Internet Traffic, and intraLATA toll) originating traffic would represent the PLU factor.
- 5.1.3 The originating Party shall be responsible for payment of any transit charges (including tandem switching) assessed by the third party LEC for use of the third party LEC's tandem.

5.2 Direct Interconnection

- 5.2.1 Where the Parties utilize Direct Interconnection for the exchange of traffic between their respective networks, each Party will calculate terminating interconnection minutes of use based on standard Automatic Message Accounting (AMA) recordings made within each Party's network. These recordings are the basis for each Party to generate bills to the other Party. For purposes of reciprocal compensation only, measurement of minutes of use over Local Interconnection Trunk Groups shall be in actual conversation seconds. The total conversation seconds over each individual Local Interconnection Trunk Group will be totaled for the entire monthly bill and then rounded to the next whole minute.



- 5.2.2 Notwithstanding the foregoing, where the terminating company has message recording technology that identifies the traffic terminated, such information, in lieu of the PLU factor, shall at the Parties option be utilized to determine the appropriate local usage compensation to be paid. Where SS7 connections exist between TDS TELECOM and US LEC, if the percentage of calls passed without CPN and LRN is less than one hundred percent (100%), all calls exchanged without CPN information and LRN will be billed as either Local Traffic or intraLATA Toll Traffic in direct proportion to the minutes of use (MOU) of calls exchanged with CPN information.
- 5.3 Audits of usage associated with Reciprocal Compensation shall be performed as specified in § 38 of the General Terms and Conditions of this Agreement.
- 5.4 The Parties shall be governed by applicable state and federal rules, practices, and procedures regarding the provision and recording of billing records. Neither Party shall bill for records older than one hundred eighty (180) days.
- 6. APPLICABILITY OF OTHER RATES TERMS AND CONDITIONS**
- 6.1 Every interconnection and service provided hereunder shall be subject to all rates, terms and conditions contained in this Agreement which are legitimately related to such interconnection or service.

**EXHIBIT D**

**to**

**REBUTTAL TESTIMONY OF WILLIAM H. BROWN  
ON BEHALF OF  
BELLSOUTH MOBILITY LLC, BELLSOUTH PERSONAL  
COMMUNICATIONS LLC AND CHATTANOOGA MSA LIMITED  
PARTNERSHIP, COLLECTIVELY D/B/A CINGULAR WIRELESS**



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October 24, 2003

**Via Hand Delivery**

Ms. Deborah Taylor Tate, Chairman  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37423-0505

Re. *Petition for Approval of the Interconnection Agreement Between TDS  
Telecom and XO Tennessee, Inc. Pursuant to Sections 251 and 252 of  
the Telecommunications Act of 1996,  
Docket # 03-00568*

Dear Chairman Tate:

Enclosed please find the original and 13 copies of the Interconnection Agreement between XO Tennessee, Inc. and TDS Telecom submitted for Tennessee Regulatory Authority approval pursuant to Section 252(e) of the Telecommunications Act of 1996. Also enclosed are two additional originals of the Interconnection Agreement which I would appreciate your stamping as "filed" and returning by way of the courier.

Should you have any questions regarding this filing, you may contact me at (865) 671-4758.

Sincerely,

Linda Lowrance  
Manager- Interconnection

Enclosures

cc: Dana Shaffer, XO Tennessee, Inc (w/o enclosures)  
Bruce Mottern (w/o enclosures)

PO BOX 22995  
KNOXVILLE, TN 37933-0995  
9737 COGDILL ROAD, SUITE 230  
KNOXVILLE, TN 37932  
TELEPHONE 865 966 4700  
FAX 865 675 3881

## **INTERCONNECTION AGREEMENT**

This Agreement is made effective on the 1<sup>st</sup> day of October, 2003, between Concord Telephone Exchange, Inc., Tennessee Telephone Company, Humphreys County Telephone Company, and Tellico Telephone Company, Inc. each as corporations organized under the laws of the State of Tennessee, (collectively, "TDS TELECOM") and XO Tennessee, Inc., a Washington corporation, with its principal place of business at 105 Molloy Street, Suite 300, Nashville, TN 37201 ("XO").

WHEREAS, the Telecommunications Act of 1996 (the "Act") was signed into law on February 8, 1996; and

WHEREAS, section 252(i) of the Act requires TDS TELECOM to make available any interconnection, service, or network element provided under an agreement approved by the appropriate state regulatory body to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the agreement in its entirety; and

WHEREAS, XO has requested that TDS TELECOM make available the interconnection agreement in its entirety executed between TDS TELECOM and US LEC of Tennessee Inc. ("US LEC") dated June 13, 2003.

NOW, THEREFORE, in consideration of the promises and mutual covenants of this Agreement XO and TDS TELECOM hereby agree as follows:

1. XO and TDS TELECOM shall adopt in its entirety the US LEC Interconnection Agreement dated June 13, 2003 and any and all amendments to said agreement executed and approved by the appropriate state regulatory commission as of the date of the execution of this Agreement. The US LEC Interconnection Agreement and all amendments are attached hereto as Exhibit 1 and incorporated herein by this reference.
2. In the event that XO consists of two (2) or more separate entities as set forth in the preamble to this Agreement, all such entities shall be jointly and severally liable for the obligations of XO under this Agreement.
3. The term of this Agreement shall be from the effective date as set forth above and shall expire as set forth in Section 5 of the US LEC Interconnection Agreement. For purposes of determining the expiration date of US LEC's Interconnection Agreement the effective date shall be September 8, 2003.
4. Every notice, consent, approval or other communications required or contemplated by this Agreement shall be in writing and shall be delivered in the case of XO to:

Dana Shaffer, Vice President, Regulatory Counsel

**TDS TELECOM- US LEC  
Contracted Interconnection Rates  
Tennessee**

Appendix Pricing  
Attachment A

TDS TELECOM-US LEC Tennessee		
	Monthly Recurring	Non Recurring
<u>Local Service Non-Recurring Charges</u>		
Local Service Order (LSR)		\$ 53.36
Miscellaneous Testing and other Additional Labor- each half hour or fraction thereof		
Basic Time per technician		\$ 23.33
Overtime per technician		\$ 34.99
Premium Time per technician		\$ 48.65
<u>RECIPROCAL COMPENSATION</u>		
<u>Local Traffic Termination</u>		
Per Terminating MOU		\$ 0.005770
<u>INTERIM NUMBER PORTABILITY</u>		
Remote call forwarding per number	\$ 2.30	
<u>WHITE PAGES</u>		
<u>TDS TELECOM Directory</u>		
Per Book copy Delivered in Bulk to CLEC- Subsequent Order(s) only *5% discount on orders over 500		\$5.00*
Per Single Sided Informational Page (optional purchase)		\$100.00
Additional listing services- per listing (optional purchase)		See Applicable Tariff

## **APPENDIX RECIPROCAL COMPENSATION**

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**APPENDIX RECIPROCAL COMPENSATION**  
**(Mutual Compensation for Transport, Termination, and Transiting)**

**1. INTRODUCTION**

- 1.1 This Appendix sets forth terms and conditions for Reciprocal Compensation provided by TDS TELECOM and US LEC.

**2. TRANSMISSION AND ROUTING OF TELEPHONE EXCHANGE SERVICE TRAFFIC RELEVANT TO COMPENSATION**

- 2.1 The Telecommunications traffic exchanged between US LEC and TDS TELECOM will be classified as Local Traffic, Internet Traffic, intraLATA Toll Traffic, or interLATA Toll Traffic. Local Traffic is defined in Section 2.5.

Reciprocal compensation applies for transport and termination of Local Traffic. When an End User originates a call which terminates to an End User physically located in the same local exchange area and served on the other Party's switch, the originating Party shall compensate the terminating Party for the transport and termination of Local Traffic in accordance with Section 4 of this Appendix.

When US LEC provides service in a LATA, the Parties' obligation for reciprocal compensation to each other shall commence on the latter of either the effective date of this Interconnection Agreement or the date that traffic first passed through the Parties networks.

The compensation arrangements set forth in this Appendix are not applicable to Exchange Access traffic or any other type of traffic found to be exempt from reciprocal compensation by the FCC or the Commission. All Exchange Access traffic and intraLATA Toll Traffic shall continue to be governed by the terms and conditions of applicable federal and state access tariffs. Optional calling plans, where applicable, will be classified as toll traffic.

"Local Traffic", for purposes of intercarrier compensation, is traffic where all calls are within the same common local and common mandatory local calling area, i.e., within the same or different TDS TELECOM Exchange(s) that participate in the same common local mandatory local calling area approved by the applicable state Commission. Local Traffic must actually originate and actually terminate to parties physically located within the same common local or common mandatory local calling area. Local Traffic does not include optional calling plans (i.e. optional rate packages that permit the end user to choose a local calling scope beyond their basic local calling area for an additional fee).

- 2.5.1 Notwithstanding any other provision of the Agreement, Local Traffic does not include any Internet Traffic. Subject to the provisions set forth in Section 4 of the General Terms and Conditions, the Parties' rights and



obligations with respect to any intercarrier compensation that may be due in connection with their exchange of telecommunications traffic delivered to Internet Service Providers (ISPs) ("Internet Traffic") shall be governed by the Order on Remand and Report and Order, *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Intercarrier Compensation for ISP Bound Traffic*, FCC 01-131, CC Docket Nos. 96-98 and 99-68.

- 2.6 Reciprocal Compensation applies to Local Traffic terminated by either Party's switch.

### 3. RESPONSIBILITIES OF THE PARTIES

- 3.1 Each Party to this Appendix will be responsible for the accuracy and quality of its data as submitted to the respective Parties involved.
- 3.2 Where SS7 connections exist, each Party will include in the information transmitted to the other for each call being terminated on the other's network, where available, the original and true Calling Party Number (CPN) and the Originating Local Routing Number (LRN).

If one Party is passing CPN and LRN, but the other Party is not properly receiving information, the Parties will work cooperatively to correct the problem.

### 4. LOCAL TRAFFIC COMPENSATION

- 4 The rates, terms, conditions contained herein apply only to the termination of Local Traffic on the Parties' networks. All applicable rate elements can be found in Appendix PRICING.

Based on the assumption that the Local Traffic exchanged by the Parties will be roughly balanced (i.e., neither Party is terminating more than sixty (60) percent of the Parties' total terminated minutes for Local Traffic), the Parties shall initially terminate each other's Local Traffic on a Bill and Keep basis. "Bill and Keep" shall mean that the Party originating the traffic has no obligation to pay terminating charges to the other Party for terminating the traffic, regardless of any charges the originating Party may assess its End User(s).

- 4.3 Either Party may request that a traffic study be performed no more frequently than once a quarter. Should such traffic study indicate, in the aggregate, that the traffic is no longer in balance, either Party may notify the other of their intent to bill for Local Traffic termination pursuant to the rates set forth in Appendix PRICING of this Agreement and continue for the duration of the Term of this Agreement unless otherwise agreed by the Parties. A minimum of thirty (30) days written notice is required prior to the first billing of mutual compensation.

4.4 Local Traffic Compensation Rate

The End Office Termination rate applies to Local Traffic that is delivered by a Party for termination by the other Party.

5. **BILLING FOR MUTUAL COMPENSATION**

5.1 Indirect Interconnection

Where the Parties utilize Indirect Interconnection via third party tandems for the exchange of traffic between their respective networks, each Party shall be responsible for the message recording required to produce accurate bills, or may utilize records provided by the tandem operator to invoice for traffic terminating on its network. The Parties agree to accept the billing records from the tandem operator as an accurate statement of traffic exchanged between the Parties.

To calculate intrastate toll access charges, each Party shall provide to the other, within 20 calendar days after the end of each quarter, a PLU (Percent Local Usage) factor. Each company should calculate the PLU factor on a state basis using their originating IntraLATA minutes of use. The Parties shall provide a separate PLU for each TDS TELECOM operating company covered under this Agreement. The percentage of originating Local Traffic plus Internet Traffic to total intrastate (Local Traffic, Internet Traffic, and intraLATA toll) originating traffic would represent the PLU factor.

The originating Party shall be responsible for payment of any transit charges (including tandem switching) assessed by the third party LEC for use of the third party LEC's tandem.

5.2 Direct Interconnection

Where the Parties utilize Direct Interconnection for the exchange of traffic between their respective networks, each Party will calculate terminating interconnection minutes of use based on standard Automatic Message Accounting (AMA) recordings made within each Party's network. These recordings are the basis for each Party to generate bills to the other Party. For purposes of reciprocal compensation only, measurement of minutes of use over Local Interconnection Trunk Groups shall be in actual conversation seconds. The total conversation seconds over each individual Local Interconnection Trunk Group will be totaled for the entire monthly bill and then rounded to the next whole minute.

5.2.2 Not withstanding the foregoing, where the terminating company has message recording technology that identifies the traffic terminated, such information, in lieu of the PLU factor, shall at the Parties option be utilized to determine the appropriate local usage compensation to be paid. Where SS7 connections exist between TDS TELECOM and US LEC, if the percentage of calls passed without CPN and LRN is less than one hundred percent (100%), all calls exchanged without CPN information and LRN will be billed as either Local Traffic or intraLATA Toll Traffic in direct proportion to the minutes of use (MOU) of calls exchanged with CPN information.

5.3 Audits of usage associated with Reciprocal Compensation shall be performed as specified in § 38 of the General Terms and Conditions of this Agreement.

5.4 The Parties shall be governed by applicable state and federal rules, practices, and procedures regarding the provision and recording of billing records. Neither Party shall bill for records older than one hundred eighty (180) days.

**6. APPLICABILITY OF OTHER RATES TERMS AND CONDITIONS**

6.1 Every interconnection and service provided hereunder shall be subject to all rates, terms and conditions contained in this Agreement which are legitimately related to such interconnection or service.

**EXHIBIT E**

to

**REBUTTAL TESTIMONY OF WILLIAM H. BROWN  
ON BEHALF OF  
BELLSOUTH MOBILITY LLC, BELLSOUTH PERSONAL  
COMMUNICATIONS LLC AND CHATTANOOGA MSA LIMITED  
PARTNERSHIP, COLLECTIVELY D/B/A CINGULAR WIRELESS**

# BASS, BERRY & SIMS PLC

A PROFESSIONAL LIMITED LIABILITY COMPANY  
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OTHER OFFICES

REGULATORY AUTH. NASHVILLE MUSIC ROW  
KNOXVILLE  
MEMPHIS

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OFFICE OF THE  
EXECUTIVE SECRETARY

March 28, 2002

## VIA HAND DELIVERY

Mr. K. David Waddell  
Executive Secretary  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37243-0505

02-00328

**Re: Interconnection and Reciprocal Compensation Agreement by and between  
CenturyTel of Claiborne, Inc. and Tennessee RSA No. 3, L.P. d/b/a  
Eloqui Wireless**

Dear Mr. Waddell:

Enclosed please find the original and 13 copies of an Interconnection and Reseller Agreement by and between Century Tel of Claiborne, Inc. and Tennessee RSA No. 3, L.P. d/b/a Eloqui Wireless for filing and approval by the Tennessee Regulatory Authority. Also enclosed is an additional copy of the Interconnection and Reseller Agreement, which I would appreciate your stamping as "filed," and returning to me by way of our courier. Finally, a check in the amount of \$50.00 made payable to the Tennessee Regulatory Authority is enclosed to cover the filing fee in this matter.

Should you have any questions with respect to this filing, please do not hesitate to contact me at the telephone number listed above.

Very truly yours,



R. Dale Grimes

RDG/gci  
Enclosures

cc: Mr. Carrick B. Inabnett (w/ enclosure)  
Mr. Gary Barker (w/ enclosure)  
Ms. Susan Smith (w/ enclosure)

2276704 1

# **INTERCONNECTION AND RECIPROCAL COMPENSATION AGREEMENT**

By and Between

CenturyTel of Claiborne, Inc.

And

Tennessee RSA No. 3, L.P. d/b/a Eloqui Wireless

For the state of

Tennessee

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This Interconnection and Reciprocal Compensation Agreement ("Agreement"), is entered into by and between CenturyTel of Claiborne, Inc. ("CenturyTel") and Tennessee RSA No. 3, L.P. d/b/a Eloqui Wireless ("ELOQUI WIRELESS"), (CenturyTel and ELOQUI WIRELESS, each, a "Party", and, collectively, "the Parties").

WHEREAS, ELOQUI WIRELESS is authorized by the Federal Communications Commission ("FCC") to provide commercial mobile radio service (as defined in Section 1.5, "CMRS") and provides such service to its end user customers, operating wireless affiliates and switch share/managed markets; and

WHEREAS, CenturyTel is a certified provider of local exchange service; and

WHEREAS, ELOQUI WIRELESS terminates local telecommunications traffic that originates from CenturyTel's subscribers, and CenturyTel terminates local telecommunications traffic that originates from ELOQUI WIRELESS's subscribers; and

WHEREAS, ELOQUI WIRELESS provides a point of interconnection in the CenturyTel service areas, or interconnects with CenturyTel's network via a third party tandem switch; and

WHEREAS, the Parties wish to establish a reciprocal compensation interconnection arrangement that compensates each other for terminating local telecommunications traffic that originates on the other Party's network.

NOW, THEREFORE, IN CONSIDERATION of the covenants contained herein, the Parties hereby agree as follows:

1. DEFINITIONS.

- 1.1 "Act" means the Communications Act of 1934, as amended, including the Telecommunications Act of 1996.
- 1.2 An "Affiliate" of a Party means a person, corporation or other legal entity that, directly or indirectly, owns or controls a Party, or is owned or controlled by, or is under common ownership or control with a Party. For purposes of this definition, the term "own" means to have a majority ownership interest in, or have voting control of a majority of the ownership interests in, such corporation or other legal entity.
- 1.3 "Business Day" means any weekday other than a Saturday, Sunday or holiday on which the U.S. Mail is not delivered.
- 1.4 "Central Office" means a switching facility from which Telecommunications Services are provided, including, but not limited to:



- (a) An "End Office Switch" or "End Office" is used, among other things, to terminate telecommunications traffic to end user subscribers.
  - (b) A "Tandem Switch" or "Tandem Office" is a switching facility that is used to interconnect trunk circuits between and among End Office Switches, aggregation points, points of termination, or points of presence.
  - (c) A "Mobile Switch Center" or "MSC" is a switching facility that provides Tandem and/or End Office switching capability.
- 1.5 "CMRS" means Commercial Mobile Radio Service as defined in the Act and 47 C.F.R. § 20.3.
- 1.6 "Commission" refers to the Tennessee Regulatory Authority in the state of Tennessee.
- 1.7 "Common Channel Signaling" or "CCS" means a high-speed specialized packet switched communications network that is separate (out-of-band) from the public packet-switched and message networks. CCS carries addressed signaling messages for individual trunk circuits and/or database-related services between Signaling Points in the CCS network using SS7 signaling protocol.
- 1.8 "Interconnection," as defined in 47 C.F.R. § 51.5, is the physical linking of two networks for the mutual exchange of traffic. This term does not include the transport and termination of traffic.
- 1.9 "Interconnection Facilities" - For CenturyTel, those facilities between the CenturyTel Central Office switch and the POI. For ELOQUI WIRELESS, those facilities between the ELOQUI WIRELESS MSC and the POI.
- 1.10 "Local Exchange Carrier" or "LEC" is as defined in the act 47 U.S.C. § 153 (26).
- 1.11 "Local Exchange Routing Guide" or "LERG" means the Telcordia reference customarily used to identify NPA-NXX routing and homing information.
- 1.12 "Local Traffic" is that telecommunications traffic, which originates and terminates within the same major trading area ("MTA"), as defined in 47 C.F.R. §24.202(a), and within CenturyTel's local exchange service area. For purposes of determining whether traffic originates and terminates within the same MTA, and therefore whether the traffic is local, the location of the landline end user and the location of the cell site that serves the mobile end user at the beginning of the call shall be used. Local Traffic includes mandatory expanded local calling area plans such as Extended Area Service ("EAS") and Extended Community Calling ("ECC"). Local Traffic excludes Information Service Providers ("ISP") traffic (e.g., Internet, 900-976, etc.) and inter-MTA and paging traffic.

- 1.13 "POI" means Point of Interconnection.
- 1.14 "PSTN" means the Public Switched Telephone Network.
- 1.15 "Tandem Switching" is when CenturyTel provides tandem switching at a CenturyTel Tandem Switch for traffic between ELOQUI WIRELESS and a CenturyTel End Office subtending the CenturyTel tandem.
- 1.16 "Telecommunication Services" shall have the meaning set forth in 47 USC §153(46).
- 1.17 "Transiting" is when CenturyTel provides tandem switching at a CenturyTel access Tandem Switch for traffic between ELOQUI WIRELESS and a non-CenturyTel End Office subtending the CenturyTel access tandem.
- 1.18 "Type 1 Wireless Interconnection" is a line side trunk provided by the LEC to the CMRS provider that utilizes NPA NXX's assigned to and resident in the LEC End Office. The LEC numbers may be assigned by the CMRS provider to their individual customers or the interconnection may be used only for auxiliary services for which the LEC must record and/or provide billing information, i.e., operator service, directory assistance, etc. The numbers assigned to the CMRS provider from the LEC office remain under the control of the LEC and any access between these numbers and PSTN must be made utilizing the LEC End Office to which the numbers are assigned.
- 1.19 "Type 2 Wireless Interconnection" is a trunk interconnecting the LEC Central Office with a CMRS provider's Mobile Switch Center. This type of connection may only be used for Local Traffic or terminating interMTA traffic.
- i) Type 2A: is trunk interconnection between a LEC Tandem and a CMRS provider Mobile Switch Center. Through this interface, ELOQUI WIRELESS can connect to Century Tel's End Offices.
  - ii) Type 2B: is a trunk interconnection between a LEC End Office and a CMRS provider Mobile Switch Center. This interconnection will only provide access to numbers residing in the LEC End Office to which the interconnection is made, including EAS and EDD served by the LEC End Offices.

## 2. RURAL TELEPHONE COMPANY.

CenturyTel asserts that it is a "rural telephone company" as that term is defined in the Act, 47 U.S.C. 153. CenturyTel further asserts that, pursuant to Section 251(f)(1) of the Act, CenturyTel is exempt from Section 251(c) of the Act. Notwithstanding such exemption, CenturyTel has entered into and accepted this Agreement for purposes of exchanging traffic,

as defined herein, with ELOQUI WIRELESS. CenturyTel's execution of this Agreement does not in any way constitute a waiver or limitation of CenturyTel's rights under Section 251(f)(1) or 251(f)(2) of the Act. Accordingly, CenturyTel expressly reserves the right to assert its right to an exemption or waiver and modification of Section 251(c) of the Act, in response to other requests for interconnection by ELOQUI WIRELESS or any other carrier.

3. TRAFFIC INTERCHANGED.

3.1 The traffic subject to this Agreement shall be that Local Traffic which originates from a subscriber on the network of one Party and is delivered to a subscriber on the network of the other Party. Such traffic includes that traffic which is delivered via a third party Tandem Switch. Terms and conditions for the interchange of traffic between the Parties via Type 1 Wireless Interconnection are governed by CenturyTel's applicable local tariff.

3.2 Tandem Switched Services

CenturyTel may provide to ELOQUI WIRELESS Tandem Switching to another CenturyTel End Office or a non-CenturyTel End Office that subtends the CenturyTel access tandem.

4. FACILITIES.

Each Party shall construct, equip, maintain and operate its network in accordance with good engineering practices for telephone systems and in compliance with all applicable rules and regulations, as amended from time-to-time, of any regulatory body empowered to regulate any aspect of the facilities contemplated herein. Where appropriate and consistent with industry practices and upon reasonable notice, each Party shall make the necessary arrangements to assure the other Party access to the point of physical interconnection for testing, maintenance, repairing and removing facilities.

When ordered by ELOQUI WIRELESS, CenturyTel shall provide interconnection circuits of a quality comparable to that provided to any other interconnected Local Exchange Carrier or to private branch exchanges between the CenturyTel switching center and the POI located in CenturyTel's local exchange serving area. CenturyTel and ELOQUI WIRELESS will jointly determine the interconnection circuit design and routing as well as the selection of the switching center from which service will be provided.

CenturyTel shall provide dedicated private line circuits between ELOQUI WIRELESS's Mobile Switching Center, remote cell sites and control points, when ordered by ELOQUI WIRELESS. When ordering these circuits, ELOQUI WIRELESS shall specify the originating and terminating points for such circuit, the bandwidth required, the transmission parameters and such other information as CenturyTel may reasonably require in order to provide the circuits. CenturyTel and ELOQUI WIRELESS will jointly determine the design and routing of these circuits, taking into account standard CenturyTel and ELOQUI WIRELESS traffic engineering methods, the availability of facilities and equipment and

CenturyTel's traffic routing plans.

It shall be the responsibility of each Party to program and update its own switches and network systems pursuant to the LERG guidelines to recognize and route traffic to the other Party's assigned NXX codes. Neither Party shall impose any fees or charges whatsoever on the other Party for such activities.

The Parties expect that where feasible, traffic will be delivered to each involved network with CCS/SS7 protocol and the appropriate ISUP/TCAP message to facilitate full interoperability and billing functions. In-band signaling may be used if CCS/SS7 is not available.

5. RATES AND CHARGES.

- 5.1 The Parties hereby agree to the following rates for the facilities and services to be provided pursuant to this Agreement. The Parties acknowledge this Agreement cannot be implemented until it is duly approved by the Commission.

<u>Facilities</u>	<u>Rates</u>
1. Interconnection Facilities	The rates for these facilities, if provided by CenturyTel, are specified in CenturyTel's applicable interstate special access tariff.
2. Local Network Usage	The Parties agree to compensate each other for terminating traffic that originates on the other Party's network. The reciprocal Local Network Usage rate is identified in Section 1(A) of Attachment I.
3. Tandem Switching	For ELOQUI WIRELESS Local Traffic that is transported to a CenturyTel End Office via a CenturyTel Tandem Switch, ELOQUI WIRELESS will compensate CenturyTel for the tandem switched traffic between ELOQUI WIRELESS and the CenturyTel End Office company at rates defined in Section 1(B) of Attachment I.
4. Transiting	For ELOQUI WIRELESS's Local Traffic that is transported to non-CenturyTel End Offices via a CenturyTel Tandem Switch, ELOQUI WIRELESS will compensate CenturyTel for the tandem switched traffic between ELOQUI WIRELESS and the non-CenturyTel end office company at rates defined in Section 1(B) of Attachment I. By transporting traffic to non-CenturyTel End Offices via a CenturyTel

Tandem Switch, ELOQUI WIRELESS assumes any responsibility for compensation to the non-CenturyTel End Office company.

- 5.2 The charges for Interconnection Facilities shall be determined by CenturyTel's applicable tariff for such facilities. Where Interconnection Facilities are used for two-way traffic, the applicable recurring charges (if any) will be reduced by a percentage equal to the percentage of traffic on such Interconnection Facilities that originates on CenturyTel's network and terminates on ELOQUI WIRELESS's network. This percentage is referred to as the Land to Mobile Traffic Factor on Attachment I. This percentage is also referred to, from time to time, in this Agreement, as the Traffic Factor or Traffic Usage Factor. The Parties agree that, at either Party's request, they will review the initial percentages based on actual usage after the initial six (6) months and after each six month period thereafter and will revise the percentage at that time based on actual traffic patterns during the preceeding six (6) months. Any change to the Land to Mobile Traffic Factor will be effective at the beginning of the then current six-month period.
- 5.3 Each Party shall compensate the other for transport and termination of Local Traffic at the reciprocal local network usage rates set forth in Section 1(A) of Attachment I. Traffic that originates on either Party's network and terminates on the other Parties' network via a third party Tandem Switch will be charged at the Local Network usage rates set forth in Section 1(A) of Attachment I.
- 5.4 The Parties will exchange billing information on a monthly basis. CenturyTel will prepare its bill in accordance with its existing CABS billing systems. ELOQUI WIRELESS will prepare its bill in accordance with the now current OBF (CABS BOS) industry standards. The Parties will make an effort to conform to current and future OBF (CABS BOS) standards, insofar as is reasonable. In the event that neither Party is capable of measuring, or has access to a measurement of traffic originating on CenturyTel's network, the charge to ELOQUI WIRELESS for Local Network Usage and Interconnection Facilities shall be based upon a mutually agreed upon assumed Traffic Usage Factor. The initial Traffic Factors are set forth in Section 3(A) of Attachment I.

For purposes of billing compensation for the interchange of Local Traffic, billed minutes will be based upon conversation time. Conversation time will be determined from actual usage recordings. Conversation time begins when the originating Party's network receives answer supervision and ends when the originating Party's network receives disconnect supervision.

## 6. BILLING AND PAYMENT OF CHARGES.

Nonrecurring charges will be billed upon completion of the work activity for which the charge applies; monthly recurring charges will be billed in advance; and Local Network

Usage will be billed in arrears. All bills will be due thirty (30) days from the billing date and will be considered past due forty-five (45) calendar days after the bill date. The Parties agree that they will each make a good faith effort to resolve any billing dispute.

If any undisputed amount due on the billing is not received by the billing Party by the payment due date, the billing Party may charge, and the billed Party agrees to pay, interest on the past due balance at a rate equal to the lesser of one and one-half percent (1½ %) per month or the maximum non usurious rate of interest under applicable law. Late payment charges shall be included on the next invoice. The late payment charge is conditioned upon the billing Party delivering an invoice to the billed Party within eight (8) calendar days of the billing date.

If any portion of an amount due to a billing Party under this Agreement is subject to a bona fide dispute between the Parties, the billed Party shall within forty-five (45) days of its receipt of the invoice containing such disputed amount give written notice to the billing Party of the amounts it disputes ("Disputed Amounts") and include in such written notice the specific details and reasons for disputing each item. The billed Party shall pay when due all undisputed amounts to the billing Party. Within fifteen (15) days of final determination of the dispute, the balance of the justified Disputed Amount shall thereafter be paid with interest from the date such amount was due when originally invoiced through the payment date at a rate equal to the lesser of one and one-half percent (1½ %) per month or the maximum rate allowable by law.

The billing Party shall charge and collect from the billed Party, and the billed Party agrees to pay to the billing Party, appropriate federal, state, and local taxes where applicable, except to the extent the billed Party notifies the billing Party and provides appropriate documentation that the billed Party qualifies for a full or partial exemption.

Backbilling or revised billing for all services provided pursuant to this Agreement may be billed for up to twelve (12) months after the date the service was furnished, provided that notification of a billing problem with respect to such service is provided. Neither Party will bill the other Party for previously unbilled charges that are more than one-year prior to the current billing date.

#### 7. NON-LOCAL TELECOMMUNICATIONS TRAFFIC.

The Parties contemplate that they may exchange non-local telecommunications traffic over the Interconnection Facilities provided for under this Agreement. The originating Party will report to the terminating Party that traffic, if any, which is non-local in nature. Compensation for non-local traffic shall be subject to the appropriate interstate access rates.

When the parties provide an access service connection between an interexchange carrier ("IXC") and each other, each party will provide its own access services to the IXC. Each party will bill its own access services rates to the IXC pursuant to the procedures described in Multiple Exchange Carrier Access Billing ("MECAB") document SR-BDS-000983, issue

5, June 1994. The Parties shall provide to each other the Switched Access Detail Usage Data and the Switched Access Summary Usage Data to bill for jointly provided switched access service, such as switched access Feature Groups B and D. The Parties agree to provide this data to each other at no charge.

If the procedures in the MECAB document are amended or modified, the Parties shall implement such amended or modified procedures within a reasonable period of time. Each party shall provide the other Party the billing name, billing address, and carrier identification code ("CIC") of the IXCs that may utilize any portion of either Party's network in an ELOQUI WIRELESS/CenturyTel Meet-Point Billing ("MPB") arrangement in order to comply with the MPB notification process as outlined in the MECAB document.

8. CREDIT ALLOWANCE FOR SERVICE INTERRUPTIONS.

Credit allowance for interruption of services provided under this Agreement shall be governed by terms and conditions set forth in CenturyTel's intrastate access tariffs.

9. SERVICE ORDERS.

ELOQUI WIRELESS shall order Interconnection Facilities on a per circuit basis and shall specify at the time the circuit is ordered the date on which ELOQUI WIRELESS desires that the service be provided. CenturyTel will process such orders in accordance with its normal procedures for the installation of comparable circuits and will advise ELOQUI WIRELESS whether or not it can meet the service date requested by ELOQUI WIRELESS and, if not, the date by which service will be provided. If ELOQUI WIRELESS wishes that the service be provided at an earlier date, CenturyTel will make reasonable efforts to meet ELOQUI WIRELESS's request on the condition that ELOQUI WIRELESS agrees to reimburse CenturyTel for all additional costs and expenses, including but not limited to overtime charges, associated with providing service at the earlier date.

10. IMPAIRMENT OF SERVICE.

The characteristics and methods of operation of any circuits, facilities or equipment of either Party connected with the circuits, facilities or equipment of the other Party pursuant to this Agreement shall not interfere with or impair service over any facilities of the other Party, its affiliated companies, or its connecting and concurring carriers involved in its services, cause damage to their plant, violate any applicable law or regulation regarding the invasion of privacy of any communications carried over the Party's facilities or create hazards to the employees of either Party or to the public (each hereinafter referred to as an "Impairment of Service").

11. RESOLUTION.

If either Party causes an Impairment of Service, the Party whose network or service is being impaired (the "Impaired Party") shall promptly notify the Party causing the Impairment of

Service (the "Impairing Party") of the nature and location of the problem and that, unless promptly rectified, a temporary discontinuance of the use of any circuit, facility or equipment may be required. The Impairing Party and the Impaired Party agree to work together to attempt to promptly resolve the Impairment of Service. If the Impairing Party is unable to promptly remedy the Impairment of Service, then the Impaired Party may at its option temporarily discontinue the use of the affected circuit, facility or equipment.

12. TROUBLE REPORTING.

In order to facilitate trouble reporting and to coordinate the repair of Interconnection Facilities, trunks, and other interconnection arrangements provided by the Parties under this Agreement, each Party has established a single point of contact available 24 hours per day, seven days per week, at telephone and facsimile numbers to be provided by the Parties. Each Party shall call the other at these respective telephone numbers to report trouble with connection facilities, trunks, and other interconnection arrangements, to inquire as to the status of trouble ticket numbers in progress, and to escalate trouble resolution.

Before either Party reports a trouble condition, it must first use its reasonable efforts to isolate the trouble to the other Party's facilities, service, and arrangements. Each Party will advise the other of any critical nature of the inoperative facilities, service, and arrangements and any need for expedited clearance of trouble. In cases where a Party has indicated the essential or critical need for restoration of the facilities, services or arrangements, the other Party shall use its best efforts to expedite the clearance of trouble.

13. TERM AND TERMINATION.

13.1 This Agreement shall be effective upon approval by the Commission in accordance with Section 252 of the Act. The "effective date" of this Agreement for such purposes will be established by the Commission approval order. This Agreement shall have an initial term of one year, unless earlier terminated as provided for in this Agreement, and shall continue in force and effect thereafter, until replaced by another agreement or terminated by either Party upon 90 days' written notice to the other.

Notwithstanding a notice of termination, this Agreement shall remain in effect until replaced by another agreement negotiated or arbitrated between the Parties pursuant to applicable law within 365 calendar days from the date that the notice of termination was received. This Agreement shall terminate on the 366<sup>th</sup> day after the date that the notice of termination was received if the Agreement has not been superseded by another agreement.

If this Agreement is terminated without a successor agreement, each Party agrees to disconnect from each other's network.

This Section 13.1 is subject to Sections 13.2 and 13.3.



13.2 Notwithstanding 13.1, this Agreement shall be terminated in the event that:

- a) the FCC revokes, cancels, does not renew or otherwise terminates ELOQUI WIRELESS's authorization to provide CMRS in the area served by CenturyTel, or the Commission revokes, cancels, or otherwise terminates CenturyTel's certification to provide local service;
- b) either Party becomes bankrupt or insolvent, makes a general assignment for the benefit of, or enters into any arrangement with creditors, files a voluntary petition under any bankruptcy, insolvency or similar laws, or proceedings are instituted under any such laws seeking the appointment of a receiver, trustee or liquidator instituted against it which are not terminated within 60 days of such commencement.

13.3 Notwithstanding Section 13.1, either Party shall have the right to terminate this Agreement upon written notice to the other Party in the event:

- a) a Party is in arrears in the payment of any undisputed amount due under this Agreement for more than 90 days, and the Party does not pay such sums within ten business days of the other Party's demand for payment;
- b) a Party is in material breach of the provisions of this Agreement and that breach continues for a period of thirty days after the other Party notifies the breaching Party in writing of such breach, including a reasonably detailed statement of the nature of the breach.

13.4 If required by the Commission, no actual service disconnection shall occur without prior approval by the Commission.

#### 14. LIABILITY UPON TERMINATION.

Termination of this Agreement, or any part hereof, for any cause shall not release either Party from any liability which at the time of termination had already accrued to the other Party or which thereafter accrues in any respect due to any act or omission occurring prior to the termination or from an obligation which is expressly stated in this Agreement to survive termination.

#### 15. AMENDMENTS.

Any amendment, modification, or supplement to this Agreement must be in writing and signed by an authorized representative of each Party. The term "this Agreement" shall include future amendments, modifications, and supplements.

#### 16. ASSIGNMENT.

Any assignment by either Party of any right, obligation, or duty, in whole or in part, or of any interest, without the written consent of the other Party, which consent shall not be unreasonably withheld, shall be void, except that either Party may assign all of its rights, and delegate its obligations, liabilities and duties under this Agreement, either in whole or in part, to any entity that is, or that was immediately preceding such assignment, a Subsidiary or Affiliate of that Party without consent, but with written notification. The effectiveness of an assignment shall be conditioned upon the assignee's written assumption of the rights, obligations, and duties of the assigning Party.

17. AUTHORITY.

Each person whose signature appears on this Agreement represents and warrants that he or she has authority to bind the Party on whose behalf he or she has executed this Agreement.

18. BINDING EFFECT.

This Agreement shall be binding on and inure to the benefit of the respective successors and permitted assigns of the Parties.

19. COMPLIANCE WITH LAWS AND REGULATIONS.

Each Party shall comply with all federal, state, and local statutes, regulations, rules, ordinances, judicial decisions, and administrative rulings applicable to its performance under this Agreement.

20. ENTIRE AGREEMENT.

This Agreement constitutes the entire agreement of the Parties pertaining to the subject matter of this Agreement and supersedes all prior agreements, negotiations, proposals, and representations, whether written or oral, and all contemporaneous oral agreements, negotiations, proposals, and representations concerning such subject matter. No representations, understandings, agreements, or warranties, expressed or implied, have been made or relied upon in the making of this Agreement other than those specifically set forth herein.

21. EXPENSES.

Except as specifically set out in this Agreement, each Party shall be solely responsible for its own expenses involved in all activities related to the subject of this Agreement.

22. FORCE MAJEURE.

In the event performance of this Agreement, or any obligation hereunder, is either directly or indirectly prevented, restricted, or interfered with by reason of fire, flood, earthquake or like acts of God, wars, revolution, civil commotion, explosion, acts of public enemy, embargo,

acts of the government in its sovereign capacity, labor difficulties, including without limitation, strikes, slowdowns, picketing, or boycotts, unavailability of equipment from vendor, changes requested by the other Party, or any other circumstances beyond the reasonable control and without the fault or negligence of the Party affected, the Party affected, upon giving prompt notice to the other Party, shall be excused from such performance on a day-to-day basis to the extent of such prevention, restriction, or interference (and the other Party shall likewise be excused from performance of its obligations on a day-to-day basis until the delay, restriction or interference has ceased); provided however, that the Party so affected shall use diligent efforts to avoid or remove such causes of nonperformance and both Parties shall proceed whenever such causes are removed or cease.

23. GOVERNING LAW.

This Agreement shall be governed by and construed in accordance with the domestic laws of the state of Tennessee as well as the Telecommunications Act of 1996 and other federal laws, and shall be subject to exclusive jurisdiction of the courts and/or regulatory commission of such state, except to the extent that the Telecommunications Act of 1996 and other federal laws provide for federal jurisdiction.

24. INDEPENDENT CONTRACTOR RELATIONSHIP.

The persons implementing this Agreement on behalf of each Party shall be solely that Party's employees or contractors and shall be under the sole and exclusive direction and control of that Party. They shall not be considered employees of the other Party for any purpose. Each Party shall remain an independent contractor with respect to the other and shall be responsible for compliance with all laws, rules and regulations involving, but not limited to, employment of labor, hours of labor, health and safety, working conditions and payment of wages. Each Party shall also be responsible for payment of taxes, including federal, state and municipal taxes, chargeable or assessed with respect to its employees, such as Social Security, unemployment, workers' compensation, disability insurance, and federal and state withholding. Each Party shall indemnify the other for any loss, damage, liability, claim, demand, or penalty that may be sustained by reason of its failure to comply with this provision.

25. LIABILITY AND INDEMNITY.

25.1 Indemnification.

Each Party agrees to release, indemnify, defend, and hold harmless the other Party, its Affiliates, and any third-party provider or operator of facilities involved in the provision of services or facilities under this Agreement (collectively, the "Indemnified Parties") from all losses, claims, demands, damages, expenses, suits, or other actions, or any liability whatsoever, including, but not limited to, costs and attorney's fees, whether suffered, made, instituted, or asserted by any other Party or person, for invasion of privacy, personal injury to

or death of any person or persons, or for losses, damages, or destruction of property, whether or not owned by others, proximately caused by the indemnifying Party's negligence or willful misconduct, regardless of form of action.

25.2 End User and Content-Related Claims.

Each Party agrees to release, indemnify, defend, and hold harmless the Indemnified Parties from all losses, claims, demands, damages, expenses, suits, or other actions, or any liability whatsoever, including, but not limited to, costs and attorney's fees, suffered, made, instituted, or asserted by the indemnifying Party's end users against an Indemnified Party arising from provision of the services or facilities. Each Party further agrees to release, indemnify, defend, and hold harmless the Indemnified Parties from all losses, claims, demands, damages, expenses, suits, or other actions, or any liability whatsoever, including, but not limited to, costs and attorney's fees, suffered, made, instituted, or asserted by any third party against an Indemnified Party arising from or in any way related to actual or alleged defamation, libel, slander, interference with or misappropriation of proprietary or creative right, or any other injury to any person or property arising out of content transmitted by the indemnifying Party or the indemnifying Party's end users, or any other act or omission of the indemnifying Party or the indemnifying Party's end users.

25.3. Disclaimer.

EXCEPT AS SPECIFICALLY PROVIDED TO THE CONTRARY IN THIS AGREEMENT, EACH PARTY MAKES NO REPRESENTATIONS OR WARRANTIES TO THE OTHER PARTY CONCERNING THE SPECIFIC QUALITY OF ANY SERVICES OR FACILITIES PROVIDED UNDER THIS AGREEMENT. EACH PARTY DISCLAIMS, WITHOUT LIMITATION, ANY WARRANTY OR GUARANTEE OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR FROM USAGES OF TRADE.

25.4 Limitation of Liability.

Each Party's liability, whether in tort or otherwise, shall be limited to direct damages, which shall not exceed the pro rata portion of the monthly charges for the services or facilities for the time period during which the services or facilities provided pursuant to this Agreement are inoperative, not to exceed in total each Party's monthly charge to the other Party. Under no circumstance shall a Party be responsible or liable for indirect, incidental, or consequential damages, including, but not limited to, economic loss or lost business or profits, damages arising from the use or provision of services hereunder.

26. DISPUTE RESOLUTION.

26.1 Alternative to Litigation.

Except as provided under Section 252 of the Act with respect to the approval of this Agreement by the Commission, the Parties desire to resolve disputes arising out of or relating to this Agreement without litigation. Accordingly, except for action seeking a temporary restraining order or an injunction related to the purposes of this Agreement, or suit to compel compliance with this dispute resolution process, the Parties agree to use the following alternative dispute resolution procedures with respect to any controversy or claim arising out of or relating to this Agreement or its breach.

## 26.2 Negotiations.

At the written request of a Party, each Party will appoint a knowledgeable, responsible representative to meet and negotiate in good faith to resolve any dispute arising out of or relating to this Agreement. The Parties intend that these negotiations be conducted by non-lawyer, business representatives. The location, format, frequency, duration, and conclusion of these discussions shall be left to the discretion of the representatives. Upon agreement, the representatives may utilize other alternative dispute resolution procedures such as mediation to assist in the negotiations. Discussions and correspondence among the representatives for purposes of these negotiations shall be treated as confidential information developed for purposes of settlement, exempt from discovery, and shall not be admissible in the arbitration described below or in any lawsuit without the concurrence of all Parties. Documents identified in or provided with such communications, which are not prepared for purposes of the negotiations, are not so exempted and may, if otherwise discoverable, be discovered or otherwise admissible, be admitted in evidence, in the arbitration or lawsuit.

## 26.3 Arbitration.

If the negotiations do not resolve the dispute within sixty (60) Business Days of the initial written request, the dispute shall be submitted to binding arbitration by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association except that the parties may select an arbitrator outside American Arbitration Association rules upon mutual agreement. A Party may demand such arbitration in accordance with the procedures set out in those rules. Discovery shall be controlled by the arbitrator and shall be permitted to the extent set out in this section. Each Party may submit in writing to a Party, and that Party shall so respond to, a maximum of any combination of thirty-five (35) (none of which may have subparts) of the following: interrogatories, demands to produce documents, or requests for admission. Each Party is also entitled to take the oral deposition of one individual of another Party. Additional discovery may be permitted upon mutual agreement of the Parties. The arbitration hearing shall be commenced within sixty (60) Business Days of the demand for arbitration. The arbitration shall be held in Little Rock, Arkansas or in a mutually agreeable alternative city. The arbitrator shall control the scheduling so as to process the matter expeditiously. The arbitrator will have no authority to award punitive damages. The Parties may submit written briefs. The arbitrator shall rule on the dispute by issuing a written opinion within thirty (30) Business Days after the close of hearings. The times specified in this section may be extended upon mutual agreement of the Parties or by the arbitrator upon a showing of good cause. Judgment upon the award

rendered by the arbitrator may be entered in any court having jurisdiction.

#### 26.4 Expedited Arbitration Procedures.

If the issue to be resolved through the negotiations referenced in Section 26.2 directly and materially affects service to either Party's end user customers, then the period of resolution of the dispute through negotiations before the dispute is to be submitted to binding arbitration shall be five (5) Business Days. Should such a service-affecting dispute be submitted to arbitration, the arbitration shall be conducted pursuant to the expedited procedure rules of the Commercial Arbitration Rules of the American Arbitration Association (i.e., rules 53 through 56).

#### 26.5 Costs.

Each Party shall bear its own costs of these procedures. The Parties shall equally split the fees of the arbitration and the arbitrator.

#### 26.6 Continuous Service.

The Parties shall continue providing services to each other during the pendency of any dispute resolution procedure, and the parties shall continue to perform their obligations (including making payments in accordance with Section 6) in accordance with this Agreement.

### 27. CONFIDENTIAL INFORMATION.

#### 27.1 Identification.

Either Party may disclose to the other proprietary or confidential customer, technical, or business information in written, graphic, oral or other tangible or intangible forms ("Confidential Information"). In order for information to be considered Confidential Information under this Agreement, it must be marked "Confidential" or "Proprietary," or bear a marking of similar import. Orally or visually disclosed information shall be deemed Confidential Information only if contemporaneously identified as such and reduced to writing and delivered to the other Party with a statement or marking of confidentiality within thirty (30) calendar days after oral or visual disclosure. The following information shall be deemed Confidential Information, whether or not marked as such: orders for services, usage information in any form, and Customer Proprietary Network Information ("CPNI") as that term is defined by the Act and the rules and regulations of the FCC.

#### 27.2 Handling.

In order to protect such Confidential Information from improper disclosure, each Party agrees:

- (a) That all Confidential Information shall be and shall remain the exclusive property of the Party from whom or from whose representative(s), the Confidential Information is obtained ("Source");
- (b) To limit access to such Confidential Information to (1) authorized employees; (2) counsel; (3) auditors; and (4) such other persons that the other Party consents to in writing, provided, however, that such consent shall not be unreasonably withheld. All such employees, counsel, auditors, and other persons shall have a need to know the Confidential Information for performance of this Agreement, for negotiation of the interconnection agreement or for arbitration or other proceedings arising from or related to the negotiation of the interconnection agreement;
- (c) To keep such Confidential Information confidential and to use the same level of care to prevent disclosure or unauthorized use of the received Confidential Information as it exercises in protecting its own Confidential Information of a similar nature;
- (d) Not to copy, publish, or disclose such Confidential Information to others or authorize anyone else to copy, publish, or disclose such Confidential Information to others without the prior written approval of the Source;
- (e) To return promptly any copies of such Confidential Information to the Source at the conclusion of the negotiations of the interconnection agreement or of the arbitration or other proceedings arising from or related to the negotiation of the interconnection agreement; and
- (f) To use such Confidential Information only for purposes of fulfilling work or services performed hereunder, for negotiating the interconnection agreement, or for conducting the arbitration or other proceedings arising from or related to the negotiation of the interconnection agreement, and for other purposes only upon such terms as may be agreed upon between the Parties in writing.

#### 27.3 Exceptions.

These obligations shall not apply to any Confidential Information that was legally in the recipient's possession prior to receipt from the Source, was received in good faith from a Third Party not subject to a confidential obligation to the Source, now is or later becomes publicly known through no breach of confidential obligation by the recipient, was developed by the recipient without the developing persons having access to any of the Confidential Information received in confidence from the source, or that is required to be disclosed pursuant to subpoena or other process issued by a court or administrative agency having appropriate jurisdiction, provided, however, that the recipient shall give prior notice to the Source and shall reasonably cooperate if the Source deems it necessary to seek protective arrangements.

#### 27.4 Survival.

The obligation of confidentiality and use with respect to Confidential Information disclosed by one Party to the other shall survive any termination of this Agreement for a period of three (3) years from the date of the initial disclosure of the Confidential Information.

28. NOTICES.

Any notice to a Party required or permitted under this Agreement shall be in writing and shall be deemed to have been received on the date of service if served personally, on the date receipt is acknowledged in writing by the recipient if delivered by regular U.S. mail, or on the date stated on the receipt if delivered by certified or registered mail or by a courier service that obtains a written receipt. Notice may also be provided by facsimile, which shall be effective on the next business day following the date of transmission. The Party receiving the notice by facsimile will provide written confirmation to the other Party. Any notice shall be delivered using one of the alternatives mentioned in this section and shall be directed to the applicable address indicated below or such address as the Party to be notified has designated by giving notice in compliance with this section:

If to CenturyTel:

CenturyTel  
Attn: Carrier Relations – Southern Region  
100 CenturyTel Drive  
Monroe, LA 71203  
Telephone number: (318) 388-9000  
Facsimile number: (318) 388-9072

With a copy to:

CenturyTel  
Attn: Carrier Relations – Corporate Manager  
100 CenturyTel Drive  
Monroe, LA 71203  
Telephone number: (318) 388-9000  
Facsimile number: (318) 388-9072

If to ELOQUI WIRELESS: Tennessee RSA No. 3, L.P. d/b/a Eloqui Wireless  
Attn: John Miller, Chief Executive Officer  
9040 Executive Park Drive, Suite 325  
Knoxville, TN 37923  
Telephone: 865-691-1555  
Facsimile: 865-691-1535  
E-mail: jmillers@eloqui.net

29. REGULATORY AGENCY CONTROL.



This Agreement shall at all times be subject to changes, modifications, orders, and rulings by the FCC and/or the Commission to the extent the substance of this Agreement is or becomes subject to the jurisdiction of such agency. CenturyTel and ELOQUI WIRELESS further agree that the terms and conditions of this Agreement were composed in order to effectuate the legal requirements in effect at the time the Agreement was produced. Notwithstanding anything herein to the contrary, if, as a result of any effective decision, order or determination of any judicial, legislative or regulatory authority with jurisdiction over the subject matter thereof, it is determined that CenturyTel is not required to furnish any service, facility, or arrangement, or to provide any benefit required to be furnished or provided to ELOQUI WIRELESS hereunder, then CenturyTel may discontinue or alter the provision of any such service, facility, arrangement or benefit to the extent permitted by any such decision, order or determination by providing 30 days' prior written notice to ELOQUI WIRELESS, unless a different notice period or different conditions are specified in this Agreement (including, but not limited to, in an applicable tariff or applicable law) for termination of such service, in which event such specified period and/or conditions shall apply.

In the event that any of the rates, terms and/or conditions herein, or any of the laws or regulations that were the basis or rationale for such rates, terms and/or conditions in the Agreement are invalidated, modified or stayed by any action of any state or federal regulatory or legislative bodies or courts of competent jurisdiction, the affected provision shall be immediately invalidated, modified, or stayed, consistent with the action of the regulatory agency, legislative body, or court upon the written request of either Party. In such event, the Parties shall expend diligent efforts to arrive at a written agreement regarding the appropriate conforming modifications to the Agreement. If negotiations fail, disputes between the Parties concerning the interpretation of the actions required or provisions affected by such governmental actions shall be resolved pursuant to the dispute resolution process provided for in this Agreement.

30. SEVERABILITY.

If any provision of this Agreement is held by a court or regulatory agency of competent jurisdiction to be unenforceable, the rest of the Agreement shall remain in full force and effect and shall not be affected unless removal of that provision results in a material change to this Agreement. If a material change as described in this paragraph occurs as a result of action by a court or regulatory agency, the Parties shall negotiate in good faith for replacement language. If replacement language cannot be agreed upon within a reasonable period, either Party may terminate this Agreement without penalty or liability for such termination upon written notice to the other Party.

**SIGNATURE PAGE**

IN WITNESS WHEREOF, each Party hereto has executed this Agreement to be effective upon approval by the Commission in accordance with Section 252 of the Act. The "effective date" of this Agreement for such purposes will be established by the Commission approval order.

Tennessee RSA No. 3, L.P. d/b/a Eloqui Wireless

By: 

Name: John Miller

Title: Chief Executive Officer

Date: 3-4-02

CenturyTel of Claiborne, Inc.

By: 

Name: Carrick B. Inabnett

Title: Corporate Manager-Carrier Relations

Date: 3/6/02

## ATTACHMENT I - RATES

### 1. LOCAL TRANSPORT AND TERMINATION RATES

- A. Termination Rate  
End Office Rate MOU: \$ 0.018
- This rate is reciprocal and symmetrical for Local Traffic exchanged between CenturyTel and ELOQUI WIRELESS and applies for all Local Traffic MOUs exchanged at a POI associated with a CenturyTel End Office.
- B. Tandem Switching Rate (Transiting)  
Rate applied per MOU: \$ 0.008562
- This rate applies to all local MOUs exchanged between ELOQUI WIRELESS and a CenturyTel End Office or the End Office of another Local provider through facilities of CenturyTel.
- C. Transport (If requested by ELOQUI WIRELESS) Appropriate CenturyTel Interstate Tariff

### 2. TOLL OR ECC OPTIONS

- Land to Mobile (If requested by ELOQUI WIRELESS)  
Reverse Billing Appropriate CenturyTel Intrastate Tariff

### 3. BILLING FACTORS

- A. Terminating Traffic Factors:
- |       |                               |
|-------|-------------------------------|
| 20 %  | Land to Mobile Traffic Factor |
| 80 %  | Mobile to Land Traffic Factor |
| 100 % | Total 2-way Usage             |

The Terminating Traffic Factors describe the level of local usage originating from one Party and terminating to the other Party as a percentage of total 2-way local traffic exchanged between the Parties. For example, a Mobile to Land Traffic Factor of 80% would mean that, of total 2-way local MOUs exchanged between CenturyTel and ELOQUI WIRELESS, 80% originated from a ELOQUI WIRELESS wireless end user customer and terminated to a CenturyTel end user customer. These factors are used to apportion flat rated transport facilities between the Parties and may be used where needed as a billing surrogate. These factors are subject to change based upon mutually accepted traffic data as provided in Section 5.2. If factors are not updated semi-annually, the Parties shall use the last previously established factors

- B. PLU. 100%

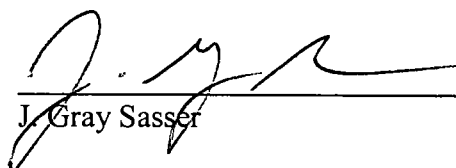
The Percent Local Usage (PLU) Factor describes the portion of Local Traffic exchanged between the Parties that both originated and terminated within the same local call area (MTA). This factor applies to both originating and terminating MOUs.

## CERTIFICATE OF SERVICE

I hereby certify that on June 3, 2004, a true and correct copy of the foregoing has been served on the parties of record, via the method indicated:

<input type="checkbox"/>	<input type="checkbox"/>	Hand	Stephen G. Kraskin
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Mail	Kraskin, Lesse & Cosson, LLC
<input type="checkbox"/>	<input type="checkbox"/>	Facsimile	2120 L Street NW, Suite 520
<input type="checkbox"/>	<input type="checkbox"/>	Overnight	Washington, D.C. 20037
<input type="checkbox"/>	<input type="checkbox"/>	Hand	William T. Ramsey
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Mail	Neal & Harwell, PLC
<input type="checkbox"/>	<input type="checkbox"/>	Facsimile	2000 One Nashville Place
<input type="checkbox"/>	<input type="checkbox"/>	Overnight	150 Fourth Avenue North Nashville, TN 37219
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Hand	J. Gray Sasser
<input type="checkbox"/>	<input type="checkbox"/>	Mail	J. Barclay Phillips
<input type="checkbox"/>	<input type="checkbox"/>	Facsimile	Melvin Malone
<input type="checkbox"/>	<input type="checkbox"/>	Overnight	Miller & Martin LLP 1200 One Nashville Place 150 Fourth Avenue North Nashville, Tennessee 37219
<input type="checkbox"/>	<input type="checkbox"/>	Hand	Edward Phillips
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Mail	Sprint
<input type="checkbox"/>	<input type="checkbox"/>	Facsimile	14111 Capital Blvd.
<input type="checkbox"/>	<input type="checkbox"/>	Overnight	Wake Forest, NC 27587-5900
<input type="checkbox"/>	<input type="checkbox"/>	Hand	Elaine D. Critides
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Mail	Verizon Wireless
<input type="checkbox"/>	<input type="checkbox"/>	Facsimile	13001 Street, NW Ste. 400 West
<input type="checkbox"/>	<input type="checkbox"/>	Overnight	Washington, DC 20005
<input type="checkbox"/>	<input type="checkbox"/>	Hand	Paul Walters, Jr.
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Mail	15 East 1 <sup>st</sup> Street
<input type="checkbox"/>	<input type="checkbox"/>	Facsimile	Edmond, OK 73034
<input type="checkbox"/>	<input type="checkbox"/>	Overnight	
<input type="checkbox"/>	<input type="checkbox"/>	Hand	Mark J. Ashby
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Mail	Cingular Wireless
<input type="checkbox"/>	<input type="checkbox"/>	Facsimile	5565 Glennridge Connector
<input type="checkbox"/>	<input type="checkbox"/>	Overnight	Suite 1700 Atlanta, GA 30342

<input type="checkbox"/>	Hand	Suzanne Toller
<input checked="" type="checkbox"/>	Mail	Davis Wright Tremaine LLP
<input type="checkbox"/>	Facsimile	One Embarcadero Center, #600
<input type="checkbox"/>	Overnight	San Francisco, CA 94111-3611
<input type="checkbox"/>	Hand	Beth K. Fujimoto
<input checked="" type="checkbox"/>	Mail	AT&T Wireless Services, Inc.
<input type="checkbox"/>	Facsimile	7277 164 <sup>th</sup> Ave., NE
<input type="checkbox"/>	Overnight	Redmond, WA 90852
<input type="checkbox"/>	Hand	Henry Walker
<input checked="" type="checkbox"/>	Mail	Jon E. Hastings
<input type="checkbox"/>	Facsimile	Boult Cummings, et al.
<input type="checkbox"/>	Overnight	P.O. Box 198062
		Nashville, TN 37219-8062
<input type="checkbox"/>	Hand	Dan Menser, Sr. Corp. Counsel
<input checked="" type="checkbox"/>	Mail	Marin Fettman, Corp. Counsel Reg. Affairs
<input type="checkbox"/>	Facsimile	T-Mobile USA, Inc.
<input type="checkbox"/>	Overnight	12920 SE 38 <sup>th</sup> Street
		Bellevue, WA 98006
<input type="checkbox"/>	Hand	Leon M. Bloomfield
<input checked="" type="checkbox"/>	Mail	Wilson & Bloomfield, LLP
<input type="checkbox"/>	Facsimile	1901 Harrison St., Suite 1630
<input type="checkbox"/>	Overnight	Oakland, CA 94612
<input type="checkbox"/>	Hand	Charles McKee
<input checked="" type="checkbox"/>	Mail	Sprint PCS
<input type="checkbox"/>	Facsimile	6450 Sprint Parkway MailStop 2A553
<input type="checkbox"/>	Overnight	Overland Park, KS 66251

  
 J. Gray Sasser



1   **Q.     Please state your name and address.**

2   A.     My name is Billy H Pruitt. My business address is 6360 Sprint Parkway, Mailstop  
3           KSOPHE0302-3C610, Overland Park, KS, 66251.

4   **Q.     By whom are you employed and in what capacity?**

5   A.     I am a Manager-Access Management/Planning in the Sprint Business Solutions Group,  
6           Carrier/Wholesale Markets, Access Management organization.

7   **Q.     Have you previously appeared as a witness in this regulatory proceeding?**

8   A.     Yes. My Direct Testimony was filed in this proceeding on June 3, 2004.

9   **Q.     What is the purpose of your present testimony?**

10  A     The purpose of my Rebuttal Testimony is to respond to the "Testimony of Steven E  
11           Watkins on behalf of the Coalition of Small LECs and Cooperatives". The "Coalition of  
12           Small LECs and Cooperatives" were referred to in my Direct Testimony as the Tennessee  
13           Rural Independent Coalition ("ICO(s)") and I continue to refer to them in this way  
14           throughout my Rebuttal Testimony

15                 To avoid repetition to the extent reasonably possible, the CMRS Providers have  
16                 followed the approach used in their respective Direct Testimony and each have assumed  
17                 primary responsibility for certain designated issues in their respective Rebuttal  
18                 Testimony. I have assumed primary responsibility to provide rebuttal testimony on  
19                 behalf of all the CMRS Providers regarding the following areas and related issues raised  
20                 in Mr Watkins' Direct Testimony.

Area	Issue No.
• Indirect Interconnection	CMRS 1, 2, 5, 6, ICO 2 and 9
• Network Changes	CMRS 18
• Scope of Traffic Subject to Reciprocal Compensation	CMRS 2(a)

21

1 To the extent not otherwise addressed by specific Rebuttal Testimony submitted  
2 by me, for the limited purposes of this consolidated arbitration, Sprint PCS generally  
3 concurs with the Rebuttal Testimony submitted by another CMRS Provider regarding  
4 those areas for which that CMRS Provider has assumed primary responsibility and  
5 submitted Rebuttal Testimony.

6 **RESPONSE TO MR. WATKINS' INITIAL COMMENTS**

7 **Q. Do you concur with Mr. Watkins' statement at Page 4 of his testimony that "the**  
8 **terms and conditions between the CMRS providers and the ICOs are inextricably**  
9 **tied to the terms and conditions between BellSouth and each ICO..."?**

10 A. No. The CMRS Providers historically used BellSouth as a transit provider for  
11 termination of wireless originated traffic to the ICOs. Because of the billing system  
12 utilized by Bellsouth, the ICOs were, by default, incorrectly being paid terminating  
13 access by BellSouth for wireless intraMTA telecommunications traffic. BellSouth, in  
14 turn, charged the CMRS Providers an amount intended to recoup the access charges that  
15 BellSouth paid the ICOs. With the implementation of the meet point billing  
16 arrangements between BellSouth and the CMRS Providers, BellSouth ultimately stopped  
17 making any further payments to the ICOs since, among other things, it was able to  
18 provide the ICOs with standard industry call records which would allow the ICOs to  
19 directly bill CMRS Providers for terminating their traffic. In any event, pursuant to the  
20 Act and the FCC rules, the ICOs and the CMRS Providers are obligated to enter into the  
21 appropriate interconnection arrangements which will require them to compensate one  
22 another for the termination of their respective intraMTA traffic on a mutual and  
23 reciprocal basis. At the same time, and in fact regardless of the existence of any  
24 interconnection agreement between an ICO and a CMRS Provider, BellSouth will  
25 continue to bill the CMRS Provider for use of its network to deliver wireless originated



1 intraMTA traffic to the ICOs (i.e , transit charges). There is no need for three party  
2 contracts.

3 Mr. Watkins is simply wrong in suggesting on Page 4 of his testimony, that the  
4 “bilateral BellSouth-CMRS agreements address a set of terms between BellSouth and the  
5 CMRS Providers for third party traffic that these parties seek to impose on the ICOs”  
6 The interconnection agreements between BellSouth and the CMRS Providers address  
7 compensation that the CMRS Providers pay BellSouth for the use of BellSouth’s network  
8 to deliver CMRS originated traffic to third party networks, including those of the ICOs.  
9 The BellSouth – CMRS Provider interconnection agreements do not contain any  
10 provisions regarding the CMRS Provider’s use of the ICO’s network or the ICO’s use of  
11 the CMRS Provider’s network The ICO-CMRS Provider interconnection agreement  
12 sought in this arbitration is to address the very subject that is not covered by the  
13 BellSouth – CMRS Provider interconnection agreements, i.e. the ICO and CMRS  
14 Provider’s respective use of each other’s network to complete a call originated on their  
15 own network Compensation for the use of one another’s network will be reflected in the  
16 symmetrical application of the arbitrated reciprocal compensation arrangements as  
17 prescribed by the FCC’s rules.

18 **Q. Did the Hearing Officer already rule on the issue of including BellSouth in the**  
19 **arbitration resulting from the interconnection negotiations between the ICOs and**  
20 **the CMRS Providers?**

21 **A.** Yes At Page 6 of the Order overruling the ICO Motion to Dismiss, the Hearing Officer  
22 determined that the “request of the Coalition for joinder of BellSouth and/or dismissal of  
23 the petitions for arbitration must be denied”. In the Order overruling the ICO motion, the  
24 Hearing Officer offered the following rationale

25 “As represented by both the CMRS providers and BellSouth, there is no  
26 provision in federal law for including any additional parties in the negotiation  
27 process. Because arbitration is simply an extension of voluntary negotiations,

1                   there is likewise, no allowance made in federal law for participation in arbitration  
2                   of any party other than the ILEC and requesting carrier(s) ”<sup>1</sup>  
3

4     **Q.     Mr. Watkins has included a Kentucky Settlement Agreement as an Attachment in**  
5           **his Direct Testimony. Is the Kentucky Settlement Agreement relevant to this**  
6           **proceeding?**

7     A.    No The Kentucky Settlement Agreement was reached between BellSouth, the Kentucky  
8           CMRS Providers, and a group of Kentucky Rural LECs for the sole purpose of reaching  
9           an interim arrangement prior to the formal negotiation of interconnection agreements  
10          between the Rural LECs and the CMRS Providers. Section 3 00 of the Settlement  
11          Agreement specifically states that “the Signatory CMRS providers must initiate  
12          interconnection negotiations with the Rural LECs consistent with Section 251 and  
13          Section 252 of the Act by no later than January 1, 2006”.

14               Interim Settlement Agreements have also been entered into in Georgia,  
15           Louisiana, and Mississippi which are similar to the Kentucky arrangement. Each of these  
16           interim Settlement Agreements contemplate formal negotiations and, if necessary,  
17           arbitrations pursuant to Section 251/252 to establish final interconnection agreements  
18           between the ICOs and CMRS Providers in those states. Negotiations have already been  
19           initiated in Georgia for the necessary replacement interconnection agreement  
20           contemplated by the Georgia interim Settlement Agreement and, due to the limited  
21           negotiation resources of each party, a staggered initiation of the remaining states is  
22           similarly expected in the near future in Louisiana and Mississippi. And finally, out of  
23           concern that the ICOs would attempt, exactly as Mr Watkins has done, to  
24           mischaracterize the interim Settlement Agreements as “three-way interconnection

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<sup>1</sup> *Order Denying Motion*, p 6, entered April 12, 2004 in this Docket No 03-00585 denying the  
“Preliminary Motion of the Rural Coalition of Small LECs and Cooperatives to Dismiss, or, in the  
Alternative, Add an indispensable Party” (hereinafter “Order Denying Motion”)

1 agreements” the CMRS Providers ultimately required a separate BellSouth-ICO  
2 settlement in North Carolina.

3 The critical distinction between Tennessee and the states where interim  
4 arrangements have been entered is that before the parties pursued an interim arrangement  
5 in Tennessee, the TRA ordered negotiations pursuant to the Section 251/252 process.  
6 This action was not only consistent with the Section 251/252 process provided by federal  
7 law (and will be followed in the interim Settlement states) but completely eliminated any  
8 need for an interim arrangement in Tennessee. Tennessee is simply far ahead of the other  
9 states in the process to reach a final, applicable CMRS-ICO interconnection agreement  
10 pursuant to the Section 251/252 process

11 In light of the complete history of the “interim Settlements” there is no basis for  
12 the TRA to rely on an interim arrangement in Kentucky, or any other state, as precedent  
13 for a formal interconnection agreement negotiation and arbitration in Tennessee

#### 14 CMRS ISSUE NO. 1

15 **Q. In his Direct Testimony concerning CMRS Issue No. 1 at Pages 6-8 Mr. Watkins**  
16 **discusses the duty of a telecommunications carrier to interconnect directly or**  
17 **indirectly and indicates that the Tennessee Regulatory Authority (the “TRA”)**  
18 **should dismiss this issue “because the obligations are already fulfilled, and there are**  
19 **no further standards to arbitrate”. What is your response?**

20 **A** I agree with Mr. Watkins that the CMRS Providers and the ICOs are currently, physically  
21 interconnected on an indirect basis. However, I disagree with Mr Watkins’ portrayal of  
22 the issue being presented before the TRA in CMRS Issue No.1. The issue is whether or  
23 not the ICOs have a duty to interconnect on an indirect basis for the mutual exchange of  
24 intraMTA telecommunications traffic as defined in 47 C.F.R 51 701(b)(2) Mr Watkins  
25 states that “[t]he ICOs have not refused to interconnect with any carrier, and the ICOs are  
26 willing to interconnect with any carrier that requests interconnection pursuant to the

requirements of the Act”. However, when read in the context of all of Mr Watkins’ testimony and the ICOs’ response, this statement clearly relates to the ICOs willingness with respect to a direct interconnection. The ICOs have not agreed that they have an obligation to enter into reciprocal compensation arrangements for traffic that is delivered on an indirect basis

**Q. On Page 7 of his testimony, Mr. Watkins makes a reference to Section 332 of the Act and makes an argument that this section “provides CMRS providers with the right to establish a physical connection with the network of a LEC” (underlining provided by Mr. Watkins). What is your response?**

A. Indeed, if the economics make it desirable, Section 332 (c) (1)(B) provides an additional right upon which a CMRS Provider can request a direct connection with a terminating ICO But, as stated in my Direct Testimony on P 18, the CMRS providers are not aware of anything that limits the CMRS Providers to the use of a direct connection, or ties the receipt of reciprocal compensation to such a connection. There simply is nothing in either Sections 251 or 332 that prohibits a CMRS Provider from using a third-party transit provider to indirectly exchange traffic between the CMRS Provider and ICO networks via the third party, or that precludes the application of reciprocal compensation when a third party is utilized.

To the contrary, with respect to 47 U.S.C 332, the implementing federal regulations expressly define the term “Interconnection or Interconnected” at 47 C F R. 20.3 to mean, “*Direct or indirect* connection through automatic or manual means (by wire, microwave, or other technologies such as store and forward) to permit the transmission or reception of messages or signals to or from points in the public switched network” (emphasis added) Section 20.11(a) then goes on to specifically state that an ICO “*must provide the type of interconnection reasonably requested by a mobile service licensee or carrier*, within a reasonable time after the request...” (emphasis added)

1 Subsection (b) of this very same rule goes on to state that “Local exchange carriers and  
2 commercial mobile radio service providers shall comply with principles of mutual  
3 compensation” (emphasis added), again without any differentiation based upon the  
4 method of interconnection that is expressly utilized. The only reasonable conclusion that  
5 one can draw from reading 47 C.F.R. Sections 20.3, 20.11(a) and 20(b) together is that a  
6 CMRS Provider may request, and an ICO must permit, either direct or indirect  
7 interconnection, and the parties must comply with the principles of mutual compensation  
8 regardless of which type of interconnection is requested.

9 **Q. On Page 8 of his testimony, Mr. Watkins states that “[t]he TRA should dismiss this**  
10 **issue because the obligations are already fulfilled, and there are no further**  
11 **standards to arbitrate”. What is your response?**

12 **A** I disagree with Mr. Watkins recommendation. It is clear that the Parties do not agree on  
13 whether or not the ICOs have a duty to interconnect directly or indirectly with the  
14 facilities and equipment of other telecommunications carriers. The TRA should make a  
15 ruling consistent with the Act and the FCC rules that confirms the duty of the ICOs to  
16 interconnect on an indirect basis for the exchange of intraMTA telecommunications  
17 traffic and require the ICOs to enter into mutual compensation arrangements for the  
18 intraMTA telecommunications traffic that is exchanged.

19 **CMRS ISSUE NO. 2**

20 **Q. In his testimony regarding CMRS Issue No. 2 at Pages 9-12, Mr. Watkins makes the**  
21 **argument that the Section 251(b)(5) rules only apply to those circumstances where**  
22 **an interconnection occurs “at any technically feasible point within the carrier’s**  
23 **network”. Do you agree?**

24 **A** No. The First Report and Order and the subsequent rules clearly provide for indirect  
25 interconnections. The fact that a CMRS Provider is not directly connected to an ICO  
26 does not mean that a 251(b)(5) obligation does not exist between the two parties. Section

1 251(b)(5) simply states the LEC duty “to establish reciprocal compensation arrangements  
2 for the transport and termination of telecommunications”. Clearly, intraMTA traffic  
3 exchanged with the ICOs is telecommunications. There is no restriction limiting the duty  
4 to establish reciprocal compensation arrangements based upon whether  
5 telecommunications are delivered via direct or indirect interconnection.

6 **Q. On Pages. 9-10 of his direct testimony Mr. Watkins discusses IXC interconnection**  
7 **and how this relates to 47 C.F.R. Part 51 Subpart H of the rules. Is this relevant?**

8 A. No. Mr. Watkins and the ICOs apparently believe that BellSouth is acting as an IXC  
9 when it transits CMRS traffic to other carriers that subtend the BellSouth tandem.  
10 However, this is simply an incorrect assumption designed to obfuscate the issue.  
11 IntraMTA CMRS traffic is not subject to intrastate or interstate access charges.  
12 Therefore, for the intraMTA traffic under consideration here, BellSouth is not acting as  
13 an IXC.

14 **Q. Do the Subpart H rules apply to traffic exchanged on an indirect basis?**

15 A. Yes. 47 C.F.R. § 51.701(a) defines the scope of the Subpart H rules:

16 (a) The provisions of this subpart apply to reciprocal compensation for transport  
17 and termination of telecommunications traffic between LECs and other  
18 telecommunications carriers.”  
19

20 The traffic at issue in this case is “telecommunications traffic” between the ICOs and the  
21 CMRS providers. Therefore, this Subpart does apply to the reciprocal compensation  
22 arrangements between the ICOs and the CMRS Providers.

23 **Q. On Page 10 of his Direct Testimony Mr. Watkins states that the “Subpart H Rules**  
24 **explicitly are defined in terms of the exchange of traffic at an interconnection point**  
25 **on the incumbent LECs network between the two carriers. An arrangement for two**  
26 **separate interconnection points involving three carriers is neither discussed nor**  
27 **consistent with the explicit terms”. What is your response?**

1 A. Mr. Watkins again tries to interpret the rules so that indirect interconnection is never an  
2 option 47 C F R § 51 701 (c) and (d) provide the basic framework for the components  
3 to be considered in the development of reciprocal compensation rates. The essential  
4 components required to complete a normal voice call in most LEC networks today are  
5 tandem switches, transport to terminating interconnected carriers, and terminating end  
6 office or equivalent facility switches. Reciprocal compensation rates are designed to  
7 recover the forward looking incremental costs associated with the terminating LEC's  
8 components which are to be billed on a reciprocal and symmetrical basis between the  
9 originating and terminating network carriers

10 **Q. Are the same network components identified in 47 C.F.R. § 51.701(c) Transport and**  
11 **(d) Termination used in a call exchanged between the ICOs and the CMRS**  
12 **Providers?**

13 A. Yes For an intraMTA call exchanged utilizing the BellSouth network, the involved  
14 components are 1) the BellSouth tandem switch, 2) the transmission facilities between  
15 the BellSouth tandem and the ICO switch, and 3) the ICO end office switch Clearly, the  
16 components of the network defined by the rules are the components of the network under  
17 consideration in this arbitration The fact that an interconnection is "indirect" does not  
18 mean there is not transport and termination.

19 **Q. On Page 10 of his testimony Mr. Watkins states that "in 700-plus pages, the FCC's**  
20 **original interconnection order never even mentions three-party arrangements**  
21 **(other than those with IXCs that are subject to the terms of access) or the concept of**  
22 **transit". What is your response?**

23 A While the First Report and Order ("the Order") did not specifically mention the words  
24 "three-party arrangements" or "transit" it is clear that the Order did talk about indirect  
25 interconnection. For instance, a key paragraph of the Order, Paragraph 997, discusses the  
26 issue of connecting on a direct or indirect basis and concludes that "telecommunications

1 carriers should be permitted to provide interconnection pursuant to section 251(a) either  
2 directly or indirectly, based upon the their most efficient technical and economic  
3 choices". It is inherent in the term "indirect interconnection" that some other entity or  
4 entities is/are connected directly to each of the parties participating in an indirect  
5 interconnection. It would be illogical to suggest that the FCC believed that an indirect  
6 interconnection did not involve a third party.

7 Regarding the term "transit", when the First Report and Order and the subsequent  
8 FCC rules were released, the term may not have been used commonly enough for the  
9 FCC to accept it as standard verbiage. In fact, BellSouth has commonly referred to  
10 transit traffic as "intermediary traffic" in its interconnection agreements. However, it is  
11 clear that most tandem LECs have implemented and currently provide a service where  
12 they will switch traffic between two carriers that are both connected to their tandem  
13 switch. In an attempt to name this function being performed, many companies adopted  
14 the term "transit" which is defined by Webster's II New College Dictionary, 1995, as  
15 "[p]assage over, across, or through". It is clear that the commonly used term in the  
16 industry today for traffic that passes over the LEC's tandem switch and transport for  
17 delivery to another carrier also connected to that same tandem is the word "transit".  
18 While the FCC may not have used the term "transit", it is clear that they understood that  
19 some carriers might opt to pass traffic indirectly to other carriers through a third carrier's  
20 switch.

21 As recently stated by the North Carolina Utilities Commission in holding that  
22 Verizon had an obligation as a matter of federal and state law to provide transit service:

23 "The fact of the matter is that transit traffic is not a new thing. It has been around  
24 since "ancient" times in telecommunications terms. The reason that it has  
25 assumed new prominence since the enactment of TA96 is that there are now  
26 many more carriers involved-notably, the new CMRS providers and the CLPs-  
27 and the amount of traffic has increased significantly. Few, if any, thought about  
28 complaining about transit traffic until recently. It strains credulity to believe that  
29 Congress in TA96 intended, in effect, to impair this ancient practice and make it



1 merely a matter of grace on the part of ILECs, when doing so would inevitably  
2 have a tendency to thwart the very purposes that TA96 was designed to allow and  
3 encourage.”<sup>2</sup>  
4

5 Obviously, the use of transit in an interconnection context is not foreign to the  
6 rest of the telecommunications industry.

7 **Q. On Page 11 of his testimony Mr. Watkins states that the TRA should determine that**  
8 **“reciprocal compensation is applicable and subject to arbitration only where the**  
9 **requesting carrier seeks to establish a point of interconnection on the other carrier’s**  
10 **network”. Do you concur?**

11 A No. It is clear that the Act and the FCC Rules clearly provide for indirect interconnection  
12 as explained throughout my Direct Testimony. The TRA should require the ICOs to  
13 comply with principles of mutual compensation when the parties interconnect on an  
14 indirect basis

15 **Q. Did the Hearing Officer in this proceeding already rule on the issue of reciprocal**  
16 **compensation applying to indirect traffic?**

17 A. Yes The Hearing Officer in the Order Denying Motion stated that:

18 “Pursuant to 47 U.S.C. § 251(a)(1), the members of the coalition, as well as the  
19 CMRS providers, are required to interconnect, either directly or indirectly, with  
20 all other telecommunications carriers As local exchange carriers, the Coalition  
21 members are also obligated to establish reciprocal compensation arrangements  
22 for both transport and termination”<sup>3</sup>  
23

24 The Hearing Officer was correct at the time of her initial ruling, and there is no sound  
25 legal basis for the TRA to change that ruling. As to compensation, the primary question  
26 that remains for consideration in the arbitration is the appropriate symmetrical rate at  
27 which the parties will compensate one another.

28 **Q. Do any of the ICOs currently have filed interconnection agreements that provide for**  
29 **indirect interconnection and mutual compensation?**

---

<sup>2</sup> State of North Carolina Utilities Commission, *Order Denying Petition*, entered September 22, 2003, Docket No P-19, Sub 454

<sup>3</sup> *Order Denying Motion*, p 6

1 A. Yes Concord Telephone Exchange, Inc, Tennessee Telephone Company, Humphreys  
2 County Telephone Company and Tellico Telephone Company, Inc. (referred to  
3 collectively as "TDS Telecom") have executed an interconnection agreement with New  
4 South Communication Corporation approved by the TRA in Docket No 04-0081.  
5 Section 1 2 of Appendix NIM states:

6 "Network Interconnection Methods (NIMs) include, but are not limited to,  
7 Indirect Interconnection, Leased Facilities Interconnection; Fiber Meet  
8 Interconnection, and other methods as mutually agreed to by the Parties "

9  
10 This identical provision is contained in filed interconnection agreements between the four  
11 TDS Telecom ICOs and US LEC of Tennessee (Docket 00-00026) and XO Tennessee  
12 (Docket 03-00568).

13 **CMRS ISSUE NO. 5**

14 **Q. On Pages 24-28 of his Direct Testimony Mr. Watkins explains his belief that the**  
15 **ICOs have no obligation to pay the transport costs associated with traffic that must**  
16 **be delivered to a point outside of its exchange boundary for termination to a CMRS**  
17 **provider's customer. What is your response?**

18 A. I disagree. As stated in my Direct Testimony at Pages 20-22, the FCC has established a  
19 Calling Party Network Pays ("CPNP") regime for telecommunications traffic. Under this  
20 regime, when an ICO or a CMRS Provider is an originating party, it is responsible for  
21 applicable, reasonable costs of delivering its originated intraMTA traffic to a terminating  
22 party and compensating the terminating party for the use of its network in the termination  
23 of such intraMTA traffic

24 For the purposes of intercarrier compensation regarding telecommunications  
25 between an ICO and a CMRS Provider, the relevant geographic area is the MTA rather  
26 than the ICO's state approved local calling area/exchange boundaries I am not aware of  
27 any ruling nor has Mr. Watkins provided any cites in support of his argument that the  
28 ICOs are not required to deliver intraMTA traffic to the CMRS Provider at any point

1 within the MTA. To the contrary, there is authority establishing that the originating party  
2 is responsible for applicable, reasonable costs associated with the delivery of its traffic  
3 within the MTA to the terminating CMRS Provider <sup>4</sup>

4 **Q. Do you concur with Mr. Watkins' conclusion that when indirect**  
5 **interconnection is involved, it would appear that there is no "transport"**  
6 **taking place because more than two carriers are involved and therefore the**  
7 **reciprocal compensation requirements do not apply?**

8 A. No. In an indirect interconnection, "transport" is present. The network  
9 components identified by the FCC in §51.701(c) *Transport* (i.e., transmission and  
10 any necessary tandem switching) exist in both direct and indirect  
11 interconnections. The issue is which entity is providing all or a portion of the  
12 transport. In an indirect interconnection the transiting LEC provides the tandem  
13 switching and some portion of the transmission facility to the ICO end office.  
14 The terminating ICO may also provide some portion of the transmission facility.  
15 The fact that more than two carriers are involved does not mean that transport  
16 does not exist between the LEC tandem and the ICO end office. To state  
17 otherwise is nonsensical.

18 From a billing perspective, if the transport facility is a meet-point facility  
19 the transiting LEC bills its transport costs as part of its "transit" rate based on the  
20 mileage from its tandem to the meet-point. The subtending ICO also bills its  
21 transport costs for the mileage from the meet-point to its terminating end-office

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<sup>4</sup> *Mountain Communications, Inc v FCC*, Case No 02-1255 (D C Cir January 16, 2004), *TSR Wireless, LLC v US West Communications, Inc*, Memorandum Opinion and Order, 15 FCC Rcd 11166 (2000) ("TSR Wireless Order"), *aff'd sub Nom*, *Qwest Corp v FCC*, 252 F 3d 462 (D C Cir 2001), *see also*, 47 C F R §§ 51.701(b)(2) and 51.703(b)

1 switch as a component of its reciprocal compensation rate. Assuming that the  
2 billed rates are based on a forward-looking incremental cost study, Sprint PCS is  
3 willing to compensate the subtending terminating end office ICO for its use of  
4 that ICO's transport facilities actually used in the termination of a Sprint PCS  
5 customer originated call.

6 **Q. What is the practical effect upon a CMRS Provider network when a CMRS**  
7 **Provider utilizes the BellSouth transiting function pursuant to BellSouth**  
8 **CMRS Provider interconnection agreements?**

9 A. Under a CMRS Provider-BellSouth interconnection agreement, a CMRS Provider  
10 has the option of using any telecommunications carrier to transport its originating  
11 traffic to a terminating party. A CMRS Provider can build its own facilities, lease  
12 facilities from third parties, or use any technically feasible alternative. In today's  
13 environment in Tennessee, the most cost-effective way to deliver traffic to  
14 terminating landline end users is to utilize BellSouth's transiting service. When a  
15 CMRS Provider utilizes this option BellSouth *simply becomes an extension of the*  
16 *CMRS Provider's network*. With an indirect interconnection a CMRS Provider is  
17 utilizing both BellSouth and terminating ICO transport facilities, and it belies  
18 logic to contend that transport is not present in such a scenario.

19 **Q. Do the FCC rules address the ICOs attempt to shift costs of their originating traffic**  
20 **to the CMRS Providers?**

21 A Yes. 47 C F R. § 51 703(b) states that "[a] LEC may not assess charges on any other  
22 telecommunications carrier for telecommunications traffic that originates on the LEC's  
23 network " This rule codifies the general principal in the CPNP regime that the calling

1 party's network pay for the costs associated with the telecommunications traffic it  
2 generates

3 **Q. Contrary to the Direct Testimony of Mr. Watkins at Page 28, how should the TRA**  
4 **resolve CMRS Issue No. 5?**

5 A. The TRA should determine that the ICOs are responsible for applicable, reasonable costs  
6 associated with delivery of intraMTA traffic originated by its customers to the  
7 terminating CMRS Provider.

8 **CMRS ISSUE NO. 6**

9 **Q. With regard to CMRS Issue No. 6, on Pages 29-31 of his Direct Testimony, Mr.**  
10 **Watkins attempts to explain why he believes it is inappropriate for BellSouth to**  
11 **combine different traffic types over the same trunk group, and suggests it would be**  
12 **more efficient for the ICOs if traffic was not commingled. What is your response?**

13 A It is technically feasible to combine different types of traffic on the same trunk group  
14 And, it is common industry practice today for tandem LECs to provide transit services to  
15 interconnected carriers by commingling different traffic types on the same trunk groups.

16 Regarding the efficiency question, the CMRS Providers do not understand why  
17 the ICOs believe it is more efficient to require duplicative trunk groups dedicated to  
18 individual carriers or service types between the transit LEC and any given ICO switch  
19 Each trunk group would unnecessarily require the use of an additional port on the ICO  
20 switch (as well as on the transit LEC's switch) thereby dramatically increasing the ICO's  
21 (and transit LEC's) capital costs related to its switching investment. On its face, this is  
22 not an efficient network arrangement for anyone.

23 **Q. On Page 31 Mr. Watkins implies that "[t]he use of dedicated facilities...enables the**  
24 **measurement of traffic that is not possible when BellSouth carriers (sic) traffic on a**  
25 **commingled basis." Do you agree that dedicated facilities are required to measure**  
26 **traffic and identify the originating carrier for billing purposes?**

1 A. No. In order to specifically identify the originating carrier and the associated volume of  
2 its traffic the terminating ICO simply needs to obtain the data from the 11-01-01 records  
3 being produced by BellSouth Through these records, which are the same records the  
4 ICOs use to bill IXC traffic, the terminating ICO should have all the information that is  
5 required to bill the originating party.

6 **Q. Mr. Watkins states at Page 31 of his Direct Testimony that the TRA should resolve**  
7 **Issue No. 6, by “making a determination that ‘[if] BellSouth elects to carry CMRS**  
8 **traffic on a commingled basis over a trunk group, BellSouth should be responsible**  
9 **for the traffic absent voluntary agreement’ ”. What is your response?**

10 A It would be inappropriate for the TRA to decide that intraMTA traffic originated by a  
11 CMRS Provider which BellSouth identifies as CMRS originated traffic and delivers to an  
12 ICO for termination can be subject to anything other than the payment of reciprocal  
13 compensation by the originating CMRS Provider to the terminating LEC It would also  
14 be inappropriate for the TRA to decide that the ICOs are not obligated to enter into an  
15 interconnection agreement for the exchange of intraMTA telecommunications traffic  
16 containing terms and conditions for the terms of mutual compensation.

17 **CMRS ISSUE NO. 18**

18 **Q. It appears on Page 53 of his Direct Testimony that Mr. Watkins is trying to create**  
19 **the impression that the CMRS Providers want to “dictate to an ICO that it must**  
20 **subtend a BellSouth tandem”. What is your response?**

21 A. As stated in my Direct Testimony on Pages 24-25, the CMRS Providers simply want the  
22 ICOs to comply with the FCC’s rules regarding notification of network changes (47  
23 C.F.R §§ 51.325 through 51.335) If a CMRS Provider believes that an ICO proposed  
24 change is unfair, the CMRS Providers want the right to challenge the proposed change  
25 pursuant to a TRA approved dispute resolution procedure The CMRS providers do not  
26 believe that an ICO must subtend a BellSouth tandem. However, the CMRS Providers do

1 believe that if a network change is purportedly implemented to discontinue the ICO's  
2 connection to the BellSouth network, but the ICO and BellSouth maintain a connection  
3 between them for the exchange of BellSouth-ICO traffic, then the CMRS Provider's  
4 traffic should also be allowed to continue to traverse this facility. The CMRS Providers  
5 do not believe that the ICOs should provide this service for free as Mr. Watkins suggest  
6 The CMRS Providers would want all traffic exchanged with the ICOs to be exchanged  
7 pursuant to a reciprocal compensation arrangement.

8 **Q. Does this conclude your rebuttal testimony?**

9 A. Yes, it does.

## CERTIFICATE OF SERVICE

I hereby certify that on June 24, 2004, a true and correct copy of the foregoing has been served on the parties of record, via the method indicated:

<input type="checkbox"/> Hand <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight	Stephen G. Kraskin Kraskin, Lesse & Cosson, LLC 2120 L Street NW, Suite 520 Washington, D.C. 20037
<input type="checkbox"/> Hand <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight	William T. Ramsey Neal & Harwell, PLC 2000 One Nashville Place 150 Fourth Avenue North Nashville, TN 37219
<input type="checkbox"/> Hand <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight	J. Gray Sasser J. Barclay Phillips Melvin Malone Miller & Martin LLP 1200 One Nashville Place 150 Fourth Avenue North Nashville, Tennessee 37219
<input type="checkbox"/> Hand <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight	Elaine D. Critides Verizon Wireless 13001 Street, NW Ste. 400 West Washington, DC 20005
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*Joseph M. Chiarelli by J. J. C.*  
Joseph M. Chiarelli

**BEFORE THE  
TENNESSEE REGULATORY AUTHORITY**

Petition of:	)	
	)	
Cellco Partnership d/b/a Verizon Wireless	)	Consolidated Docket
For Arbitration Under the	)	No 03-00585
Telecommunications Act of 1996	)	
	)	
	)	
	)	
	)	
	)	

**REBUTTAL TESTIMONY OF W. CRAIG CONWELL  
ON BEHALF OF  
VERIZON WIRELESS, CINGULAR WIRELESS, AT&T WIRELESS  
AND T-MOBILE USA**

**INTRODUCTION**

**Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND EMPLOYER.**

A. My name is W. Craig Conwell. My business address is 405 Hammett Road, Greer, South Carolina. I am an independent consultant.

**Q. DID YOU FILE DIRECT TESTIMONY IN THIS CASE?**

A. Yes, I filed direct testimony on behalf of Verizon Wireless, Cingular Wireless, AT&T Wireless and T-Mobile USA.

**Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

A. Along with other witnesses for the CMRS Providers, I will show that the Rural Coalition continues to reject, without sound basis, the FCC rules for establishing transport and termination rates for reciprocal compensation. The Coalition stubbornly refuses to either produce rates based on forward-looking economic costs or to acknowledge that a bill-and-keep arrangement as required by 47 CFR §51.705(a) is appropriate.

1  
2 Secondly, I explain why the transport and termination rates proposed by the Coalition,  
3 which they inform the CMRS Providers are their interstate access rates, are not applicable  
4 to intra-MTA CMRS traffic and cannot be adopted per the FCC pricing rules<sup>1</sup> Witnesses  
5 for the CMRS Providers have already shown that the *Local Competition Order* precludes  
6 switched access rates for reciprocal compensation of intra-MTA CMRS traffic.  
7 Furthermore, switched access rates in all likelihood exceed the Coalition company  
8 forward-looking economic costs of transport and termination, and therefore cannot be  
9 adopted per §51.505(e).

10  
11 Third, I provide “benchmark costs” for transport and termination for consideration by the  
12 TRA if it decides to adopt cost-based rates, rather than bill-and-keep arrangements.<sup>2</sup> The  
13 benchmarks show that rates proposed by the Rural Coalition likely exceed forward-  
14 looking economic costs. They also indicate what might be reasonable results, were the  
15 Coalition companies to produce appropriate cost studies. If the TRA adopts interim rates,  
16 they should be in line with these benchmark costs.

17  
18 **THE RURAL COALITION CONTINUES TO REJECT WITHOUT SOUND**  
19 **BASIS THE FCC PRICING RULES IN 47 CFR 51.705(a).**  
20

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<sup>1</sup> “CMRS Proposed Terminating Compensation Rates,” Tennessee Rural Coalition, Attachment E to Testimony of Steven E. Watkins, Docket No. 03-00585, June 8, 2004

<sup>2</sup> As other CMRS Provider witnesses have testified, it is arguable whether setting reciprocal compensation based on default proxy transport and termination costs is a valid option given *Iowa Utilities Bd. v. FCC*, 219 F.3d 744 (8<sup>th</sup> Cir. 2000). See “Testimony of William H. Brown” and “Testimony of Billy H. Pruitt,” TRA Docket No. 03-00585

1   **Q.   HAS THE RURAL COALITION REJECTED THE FCC PRICING RULES IN**  
2       **§51.705(a)?**

3   **A.**   The most recent indication of the Rural Coalition’s position on this issue is by their  
4       witness, Steven E. Watkins. He states:

5  
6           “... the so-called economic and incremental costing methodology that the FCC  
7           applies to companies like BellSouth does not apply to the smaller, rural carriers.  
8           Moreover, these rules do not under any circumstances address voluntary transit  
9           three-party arrangements. Nor do any rules or standards require that any specific  
10          pricing rules apply to such transit arrangements ”<sup>3</sup>  
11

12       Mr. Watkins rejects the FCC pricing rules by claiming that they do not apply to (1)  
13       smaller, rural carriers and (2) voluntary transit three-party arrangements (or indirect  
14       interconnection). Witness Brown for the CMRS Providers in his direct testimony has  
15       shown that traffic transported by indirect interconnection is indeed subject to the FCC  
16       pricing rules. In addition, Mr. Brown pointed out that the Hearing Officer has ruled that  
17       reciprocal compensation applies to both the direct and indirect exchange of traffic.<sup>4</sup>  
18

19       With respect to the position that the FCC pricing rules do not apply to smaller, rural  
20       carriers, the Coalition actually equivocates on this position in Mr. Watkins’ testimony.  
21       He states:

22  
23           “Nevertheless, the ICOs have voluntarily proposed rates which are more than  
24           reasonable given their status and their network costs. The ICOs have proposed to  
25           utilize the per-minute rates for identical transport and termination as they use and  
26           apply for interstate access purposes. The rates for these functions are based on  
27           the costs of transport and switching that are the same costs to be considered under

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<sup>3</sup> “Testimony of Steven E. Watkins,” TRA Docket No. 03-00585, pp. 35 – 38

<sup>4</sup> Brown Testimony, pp. 13-15

1 the FCC's pricing methodology Moreover, the fact is that their actual costs (no  
2 matter what theoretical approach one applies) are likely to be much higher ..."<sup>5</sup>  
3

4 The Coalition is attempting a "back door" approach for satisfying the FCC pricing rules.  
5 Their witness indicates the proposed interstate access rates are "for identical transport and  
6 termination" and are "the same costs to be considered under the FCC's pricing  
7 methodology." In effect, he is saying the network elements are the same, and the  
8 methodology is the same; therefore, the resulting costs and rates must be the same. It  
9 seems to me that Mr. Watkins has, in effect, attempted to align with the FCC pricing  
10 rules, but wants to substitute interstate access rates for the forward-looking economic  
11 costs of transport and termination. This cannot be done.  
12

13 **SWITCHED ACCESS RATES ARE NOT AN ACCEPTABLE ALTERNATIVE**  
14 **FOR RECIPROCAL COMPENSATION**  
15

16 **Q. ARE ILECs PERMITTED TO USE ACCESS RATES FOR RECIPROCAL**  
17 **COMPENSATION OF TELECOMMUNICATIONS TRAFFIC EXCHANGED**  
18 **WITH CMRS PROVIDERS?**

19 A. No, witness Pruitt for Sprint PCS addresses this issue in his testimony.<sup>6</sup> He cites the  
20 FCC's *Local Competition Order*, specifically:  
21

22 " .. traffic to or from a CMRS network that originates and terminates within the  
23 same MTA is subject to transport and termination rates under section 251(b)(5),  
24 rather than interstate and intrastate access rates."  
25

---

<sup>5</sup> Watkins Testimony, page 35

1 Thus, the Rural Coalition cannot establish transport and termination rates based on access  
2 rates, even if they contend as Mr. Watkins states in his testimony that Coalition company  
3 access rates are “the same costs to be considered under the FCC’s pricing methodology.”  
4 Independent of the interstate access rate regime, the Coalition companies individually are  
5 required to attest to their forward-looking economic costs of transporting and terminating  
6 intra-MTA CMRS traffic.  
7

8 **Q. ARE INTERSTATE ACCESS RATES THE SAME AS TRANSPORT AND**  
9 **TERMINATION RATES BASED ON FORWARD-LOOKING ECONOMIC**  
10 **COSTS AS DEFINED IN §51.505?**

11 A. No, the methodologies for establishing interstate access rates and transport and  
12 termination rates for reciprocal compensation are entirely different. It is highly unlikely  
13 that the numerical results of the two methodologies would be the same. I expect the Rural  
14 Coalition interstate access rates to be higher than their forward-looking economic costs.  
15 This would make them inconsistent with the FCC’s cost study requirements in  
16 §51.505(e), which states:  
17

18 “(e) Cost study requirements. An incumbent LEC must prove to the state  
19 commission that the rates for each element it offers do not exceed the forward-  
20 looking economic cost per unit of providing the element, using a cost study that  
21 complies with the methodology set forth in this section and §51.511.”  
22  
23

---

<sup>6</sup> Pruitt Testimony, pp 28-29

1 **Q. WHAT ARE THE PRIMARY METHODOLOGICAL DIFFERENCES BETWEEN**  
2 **FORWARD-LOOKING ECONOMIC COSTS AND INTERSTATE ACCESS**  
3 **RATES?**

4 A. There are numerous methodological differences between a forward-looking economic  
5 cost study for establishing transport and termination rates and the process used to develop  
6 interstate access rates. I will describe some of the major differences between the two  
7 methodologies.

- 8  
9 • *Differences in scope of costs recovered.* The costs recovered by reciprocal  
10 compensation are limited to those incurred by a carrier for transport and termination  
11 as defined in §51.701(c) and (d). Per NECA's Interstate Access Tariff Number 5,  
12 access rate elements include a variety of rate elements.<sup>7</sup> The Rural Coalition has  
13 provided no evidence to show that the proposed rates are limited to the strict  
14 definition of transport and termination, and not inflated by access rate elements that  
15 do not apply.

- 16  
17 • *Differences in the type of costs.* Transport and termination rates are to be based on  
18 Total Element Long Run Incremental Costs (TELRIC), plus a reasonable allocation  
19 of forward-looking common costs<sup>8</sup> TELRIC represents the forward-looking costs of  
20 network elements.<sup>9</sup> These costs reflect currently available plant technologies and

---

<sup>7</sup> The NECA tariff includes among others the following rate elements entrance facility, direct trunked transport, tandem switched transport, common switching, transport termination, line termination, intercept, information surcharge and various optional features. The information surcharge, optional features and perhaps others would not apply to transport and termination.

<sup>8</sup> See §51.505

<sup>9</sup> The relevant network elements for transport and termination are the traffic-sensitive portion of end office switching, local transport and tandem switching, if provided by the ILEC.

1 current vendor charges to engineer, furnish and install plant. Plant utilization levels,  
2 which determine the cost of spare capacity, are based on efficient sizing of network  
3 elements and forward-looking, average utilization. The cost of capital and  
4 depreciation rates are based on the expected capital structure for the ILEC, its  
5 prospective costs of debt and equity capital, and future economic lives for plant. The  
6 common costs added to TELRIC are supposed to reflect general and administrative  
7 functions and support assets that are sized efficiently for the future.

8  
9 On the other hand, access charges based on FCC Part 69 reflect embedded costs,  
10 which the FCC pricing rules specifically say may not be considered.<sup>10</sup> Embedded  
11 costs are “costs that the incumbent LEC incurred in the past and that are recorded in  
12 the incumbent LEC’s books of accounts.” Given trends in telecommunications  
13 technology and costs, embedded costs are likely to be higher than forward-looking  
14 costs or TELRIC.<sup>11</sup> In addition, utilization levels for embedded or “sunk” plant may  
15 be lower than in a forward-looking study in which network elements are sized to  
16 efficiently serve future demand. Lower utilization raises spare capacity costs and  
17 access charges. Finally, the cost of capital, depreciation rates and common costs,  
18 based on embedded costs, may be different between the two methodologies.

- 19  
20 • *Factors that may not be considered in forward-looking economic costs.* The FCC  
21 pricing rules in §51.505(d) identify factors that may not be considered in the forward-  
22 looking economic costs used to establish transport and termination rates. I mentioned

---

<sup>10</sup> See §51.505(d)(1)



1 previously embedded costs are not to be considered. Secondly, “revenues to  
2 subsidize other services” are not permitted. Access charges were set for many years  
3 well above direct costs, and to the extent access charges have not yet reached the  
4 level of direct costs, plus a reasonable allocation of common costs, revenues still are  
5 generated to subsidize other services.<sup>12</sup>  
6

7 I do not see how Mr. Watkins can claim, “The rates for these functions are based on the  
8 costs of transport and switching that are the same costs to be considered under the FCC’s  
9 pricing methodology.” Even if the FCC had not specifically ruled against using switched  
10 access rates for reciprocal compensation in the *Local Competition Order*, the differences  
11 in methods between access charges and forward-looking economic costs are so dramatic  
12 that access charges have to be eliminated as a basis for reciprocal compensation.  
13

14 **Q. MR. WATKINS CONTENDS THAT TRANSPORT AND TERMINATION COSTS**  
15 **ACTUALLY ARE GREATER THAN THE PROPOSED ACCESS RATES. DO**  
16 **YOU AGREE WITH THIS?**

17 A. Mr. Watkins offers no factual basis for this claim. He simply makes the following  
18 assertion in his testimony:  
19

20 “Moreover, the fact is that their actual costs (no matter what theoretical approach  
21 one applies) are likely to be much higher than these rates would indicate for at  
22 least two reasons: (1) the FCC has removed some actual traffic sensitive costs  
23 from interstate access rates; and (2) not all of the ICO’s actual costs are even

---

<sup>11</sup> For example, as the bandwidth of transport facilities increases, fiber cable and circuit equipment costs per unit of capacity decline. ILECs in recent years have increased transport bandwidth as interoffice traffic has increased.

<sup>12</sup> In the May 6, 2004 “Trends in Telephone Service,” the FCC on pages 1-3 to 1-4 describes the history of access charges and these inherent subsidies.

1 considered in the development of these rates because some of those costs are  
2 assigned and recovered through Universal Services sources.”<sup>13</sup>  
3

4 The Coalition has proposed a single rate per company, without any details about the  
5 underlying access rate elements. Copies or references to tariff pages or other documents  
6 that authenticate the proposed rates were not provided. The “traffic sensitive costs”  
7 removed from the access rates and the costs “assigned and recovered through Universal  
8 Service sources” have not been defined or quantified. Consequently, we do not know  
9 where the numbers came from, what is in them, or what and how much is missing from  
10 them, if anything. In addition, the Rural Coalition has not produced forward-looking  
11 economic costs for transport and termination, so I do not see how Mr. Watkins can claim  
12 that something he has not computed is greater than something he has not well defined.  
13

14 **THE RURAL COALITION HAS FAILED TO NEGOTIATE IN GOOD FAITH**  
15 **BY PROVIDING COST SUPPORT FOR PROPOSED RATES**  
16

17 **Q. HAS THE RURAL COALITION MET ITS OBLIGATION TO NEGOTIATE IN**  
18 **GOOD FAITH BY PROVIDING ADEQUATE COST SUPPORT?**

19 A. No, they have not. Setting aside the fact that the Rural Coalition has not produced studies  
20 that meet the cost study requirements of §51.505(e), they failed to even furnish cost data  
21 underlying the interstate access rates that they have proposed.  
22

---

<sup>13</sup> Watkins, page 35

Besides preventing the CMRS Providers from reviewing relevant cost data, they also are denying the TRA information it needs to create an adequate record in this case, as indicated in the following from §51.505(e)(2):

“Any state proceeding conducted pursuant to this section shall provide notice and an opportunity for comment to affected parties and shall result in the creation of a written factual record that is sufficient for purposes of review. The record of any state proceeding in which a state commission considers a cost study for purposes of establishing rates under this section shall include any such cost study.”

#### **BENCHMARK TRANSPORT AND TERMINATION COSTS**

**Q. HAVE YOU PREPARED COST BENCHMARKS FOR TRANSPORT AND TERMINATION, AND IF SO, WHY?**

A. I gathered from public sources information that indicates reasonable transport and termination rates for the Coalition companies. Obviously, these rates cannot be represented as the forward-looking economic costs of the companies. Only they can determine these. However, the information that I gathered demonstrates (1) that the interstate access rates proposed by the Coalition generally are too high, and (2) that reasonable forward-looking economic costs for transport and termination can be expected to be less than \$0.01 per minute, and perhaps much less, depending on circumstances of each company.

1 **Q. SINCE TRANSPORT AND TERMINATION COSTS HAVE NOT BEEN**  
2 **PRODUCED BY THE COALITION COMPANIES, PLEASE DEFINE THE**  
3 **TYPICAL COST COMPONENTS?**

4 A. *Transport* typically includes (1) common transport, or the cable facilities and circuit  
5 equipment used for local trunking, and (2) tandem switching, if necessary. *Termination*  
6 includes the traffic-sensitive portion of end office switching, including host and remote  
7 switches. Transport between host and remote switches may be included with either the  
8 transport or the termination rate element.

9  
10 **Q. WHAT IS A REASONABLE VALUE FOR FORWARD-LOOKING**  
11 **TERMINATION COSTS?**

12 A. The Consumer Advocate Division of the Public Service Commission of West Virginia  
13 conducts a survey of unbundled network element (UNE) prices. The survey primarily  
14 covers the Regional Bell Operating Companies. Their most recent survey indicates that  
15 unbundled switching rates per minute of use (MOU) in 37 states and the District of  
16 Columbia range from \$.0005 to \$.0002.<sup>14</sup> In another eight states, the rates are between  
17 \$.0002 and \$.0004 per MOU. Only two companies, ATU in Alaska and Verizon in  
18 Hawaii, have switching rates per MOU above \$.0005. The forward-looking economic  
19 costs of unbundled switching and termination should be similar. Each reflects the traffic-  
20 sensitive portion of end-office switching, and each is subject to the same FCC pricing  
21 rules. I prepared Attachment WCC-1 showing the unbundled switching rates across the  
22 states.

---

<sup>14</sup> "A Survey of Unbundled Network Element Prices in the United States," updated January, 2004, Consumer Advocate Division, Public Service Commission of West Virginia

1  
2 **Q. WOULD YOU EXPECT RURAL COALITION COMPANIES TO HAVE**  
3 **HIGHER TERMINATION COSTS?**

4 A. I expect smaller telephone company switching costs per MOU to be somewhat higher.  
5 Switches have a certain level of “getting started costs” for the central processor, memory,  
6 etc. These costs decline on a per-line and per-MOU basis as the number of lines and  
7 minutes of use increases.

8  
9 **Q. DO YOU HAVE AN ESTIMATE OF SWITCHING COSTS PER MOU FOR**  
10 **RURAL TELCOS?**

11 A. I consider \$0.0051 per MOU to be a reasonable average value for the forward-looking  
12 economic cost of end office switching or termination for rural telephone companies. I  
13 base this estimate on actual switch cost data shown in Attachment WCC-2, which were  
14 obtained from a public document prepared by the Rural Utilities Service (RUS) on rural  
15 telco switching costs.<sup>15</sup> The RUS identified actual switch costs for over 35 rural telco  
16 switches.<sup>16</sup> I used this data to prepare the analysis shown in Attachment WCC-3, which  
17 determined the \$0.0051 per MOU termination cost. Individual rural company  
18 termination costs may be somewhat above or below the average value depending on the  
19 size of host switches, the mix of host versus remote switches, minutes of use per line and  
20 annual cost factors.<sup>17</sup> It should be noted that my estimate of average rural switching costs

---

<sup>15</sup> “Comments of the Rural Utilities Service,” In the Matter of Forward-Looking Mechanism for High Cost Support for Non-Rural LECs, CC Docket No 97-160, August 7, 1997

<sup>16</sup> See Attachment WCC-2

<sup>17</sup> Certain data in the switching cost analysis were obtained from the RUS Comments. The average switch investments per line and the additional switching costs for engineering, software upgrades and growth lines were obtained from the RUS Comments. Minutes of use per line were computed from data in the WV PSC “Survey of

1 is over six times higher than BellSouth's unbundled switching rate in Tennessee  
2 (\$0.0008041 / MOU).

3  
4 **Q. DO YOU ALSO HAVE DATA ON TRANSPORT COSTS?**

5 A. I have common transport rates across the states from the West Virginia PSC survey of  
6 UNE rates. Transport rates per MOU range from \$0.0001 to \$0.0014 (excluding Nevada  
7 at \$0.0073 / MOU) as shown in Attachment WCC-4. Forward-looking economic costs  
8 for transport are driven by several variables including transport circuit bandwidth, trunk  
9 utilization, length of haul, minutes of use per trunk and annual cost factors. Some of  
10 these variables, such as transport circuit bandwidth and length of haul, may be such that  
11 an individual Coalition company's transport costs are above the range of rates shown in  
12 Attachment WCC-4. For this reason, I would use the upper end of the range or \$0.0015  
13 as a benchmark for Coalition company transport costs.

14  
15 In addition to common transport, tandem switching costs may apply to some companies.  
16 Tandem switching costs generally are smaller than those of end office switching. In  
17 comparing tandem and end office switching rates in the survey, I found the average ratio  
18 to be approximately 0.44 to 1.0, so for a Rural Coalition company with tandem switching  
19 a value of \$0.0022 would be a reasonable benchmark for the forward-looking economic  
20 cost.<sup>18</sup>

---

UNE Prices ” Other data, such as the mix of host-remote lines, annual line growth, cost of capital, service life, etc are reasonable assumptions based on experience with digital electronic switch costs

<sup>18</sup> See Attachment WCC-5 for the ratios of tandem switching to end office switching UNE rates across the states

1 **Q. PLEASE SUMMARIZE THE BENCHMARK VALUES FOR TRANSPORT AND**  
2 **TERMINATION.**

3 A. For Rural Coalition transport and termination rates I recommend a benchmark of \$0.0066  
4 per MOU without tandem switching and \$0.0088 with tandem switching. These are  
5 composed of \$0.0051 for end office switching, \$0.0015 for common transport and  
6 \$0.0022 for tandem switching, if necessary. Individual company rates will fall above or  
7 below these averages depending upon their unique cost characteristics. Attachment  
8 WCC-6 shows the benchmark relative to the transport and switching UNEs (without  
9 tandem switching) across the states.

10  
11 **Q. HOW DO THE RATES PROPOSED BY THE RURAL COALITION COMPARE**  
12 **WITH THE BENCHMARKS?**

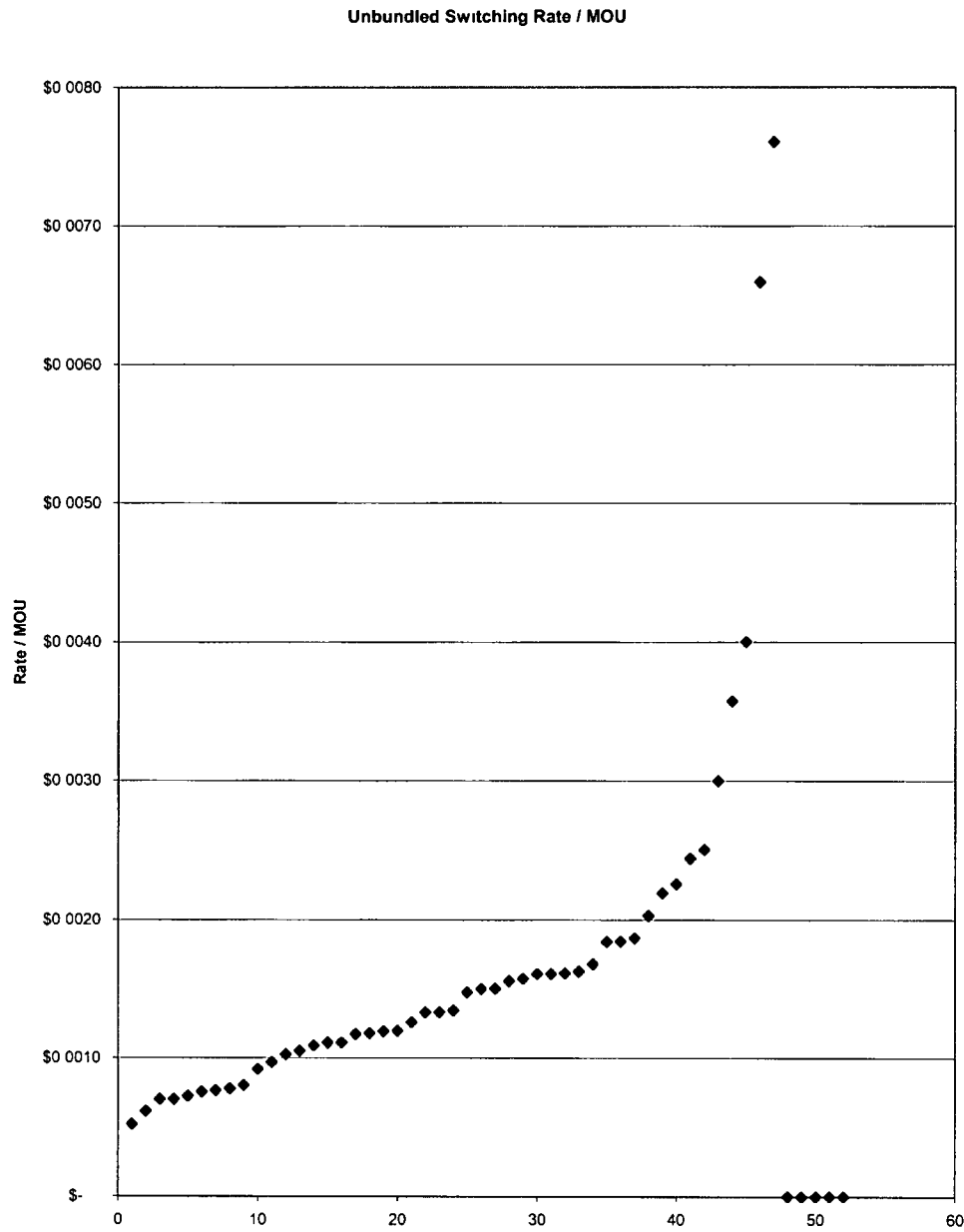
13 A. The TRA can compare the proposed rates in Mr. Watkins' Attachment E against the  
14 benchmarks. Generally, the proposed rates are significantly higher. This raises serious  
15 questions about whether the proposed rates include access elements beyond transport and  
16 termination and whether the interstate access rates are greater than Coalition company  
17 forward-looking economic costs. If either situation is true, the proposed rates cannot be  
18 adopted. We cannot know for sure until the companies satisfy the FCC rules and produce  
19 the necessary cost studies and supporting documentation to meet their obligations.

20  
21 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

22 A. Yes, it does.

1 Attachment WCC-1 – Unbundled Switching Rates

2



3

4

5 Note: In IL, IN, MN, VA and WI, the switching rate / MOU appears to be zero. This is  
6 because usage-sensitive switching and the switch port are combined in a single switching  
7 port rate.



1 Attachment WCC-2 – Rural Telephone Company Switch Costs

2

**Rural Telephone Company Actual Switch Costs**

Comments of the Rural Utilities Service  
CC Docket No 97-160  
August 7, 1997

Host Switches				Remote Switches			
Number of Lines	Actual Cost	Cost / Line	Note	Number of Lines	Actual Cost	Cost / Line	
75	\$ 81,000	\$ 1,080		75	\$ 80,762	\$ 1,077	
120	\$ 115,589	\$ 963		120	\$ 46,328	\$ 386	
150	\$ 121,319	\$ 809		151	\$ 72,413	\$ 480	
253	\$ 1,540,904	\$ 6,091	*	250	\$ 109,381	\$ 438	
443	\$ 164,290	\$ 371		440	\$ 60,559	\$ 138	
460	\$ 354,675	\$ 771		460	\$ 98,249	\$ 214	
560	\$ 467,603	\$ 835		578	\$ 88,733	\$ 154	
598	\$ 329,951	\$ 552		600	\$ 104,276	\$ 174	
674	\$ 163,218	\$ 242		680	\$ 181,249	\$ 267	
684	\$ 315,709	\$ 462		688	\$ 256,750	\$ 373	
820	\$ 977,080	\$ 1,192	*	810	\$ 296,970	\$ 367	
850	\$ 620,200	\$ 730	*	865	\$ 117,218	\$ 136	
960	\$ 451,225	\$ 470		960	\$ 176,249	\$ 184	
1,412	\$ 526,088	\$ 373		1864	\$ 117,218	\$ 63	
1,779	\$ 429,417	\$ 241		1880	\$ 229,663	\$ 122	
2,100	\$ 766,053	\$ 365		2510	\$ 273,000	\$ 109	
2,615	\$ 490,666	\$ 188		2740	\$ 281,600	\$ 103	
2,714	\$ 526,839	\$ 194					
2,830	\$ 596,830	\$ 211					
3,810	\$ 1,243,673	\$ 326	*				
4,760	\$ 663,650	\$ 139					
<b>Total</b>	<b>28,667</b>	<b>\$ 10,945,979</b>	<b>\$ 382</b>	<b>15671</b>	<b>\$ 2,590,618</b>	<b>\$ 165</b>	
Total excluding four switches (*) constructed to serve large number of remotes							
22,934	\$ 6,564,122	\$ 286					

3

# 1 Attachment WCC-3 – Benchmark Rural Telco Termination Rate

2

## Benchmark Termination Forward-Looking Economic Cost

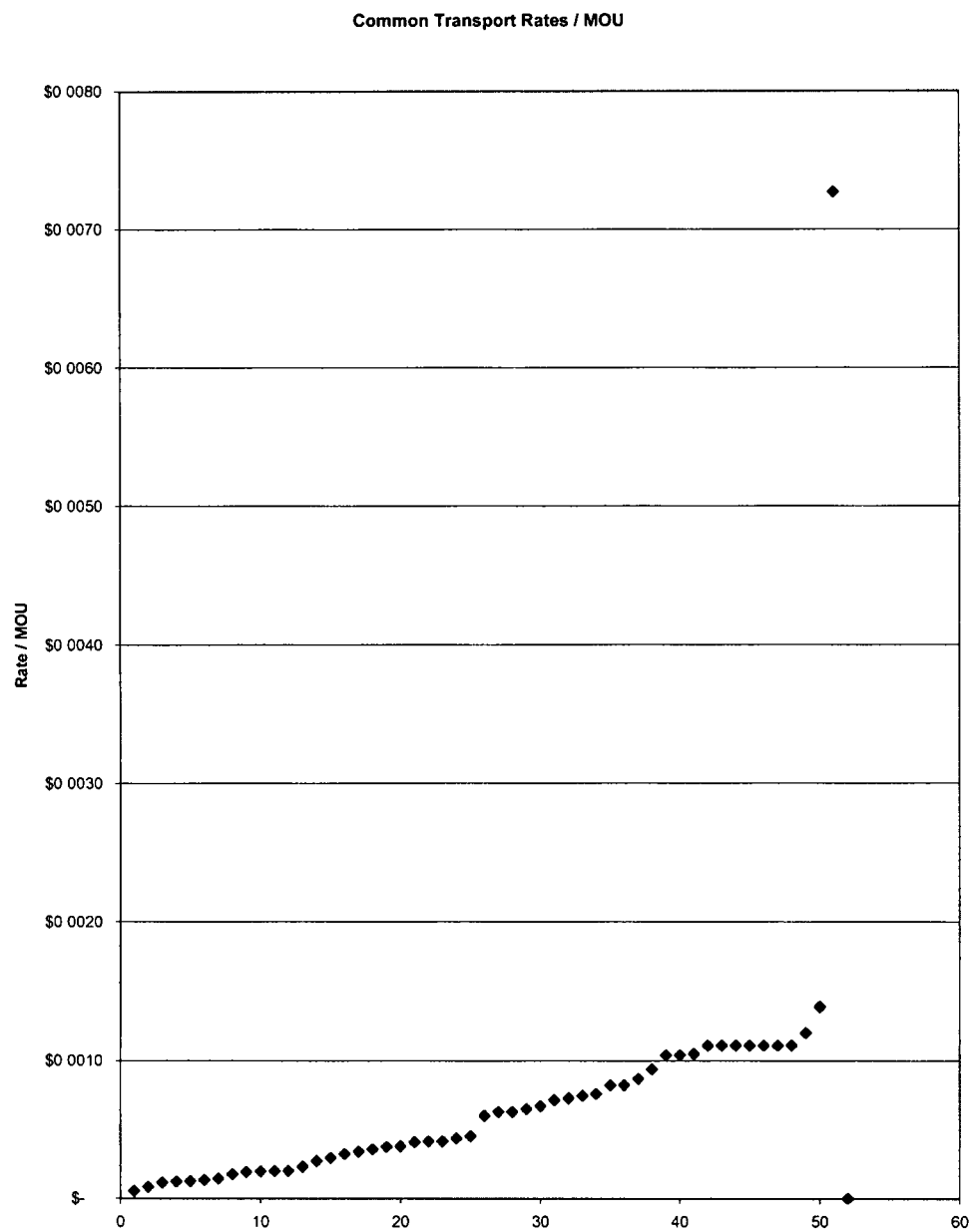
Item	Amount	Source
Switching cost / line		"Comments of the Rural Utilities Service", In the Matter of Forward-Looking Mechanism for High Cost Support for Non-Rural LECs, CC Docket No 97-160
Host switch	\$ 286	"
Remote switch	\$ 165	"
Percent remote switch lines	40%	Assumption
Switching cost / line	\$ 238	Calculation
Engineering fees	8%	Comments of the RUS
Switching cost incl engineering fees	\$ 257	Calculation
Annual line growth	4%	Assumption
Cumulative growth in lines - five years	22%	Calculation
Growth lines as percent of total lines	18%	"
Additional cost of growth lines	20%	Comments of the RUS
Switching cost - initial and growth lines	\$ 266	"
Software upgrades as percent of total switch cost	23%	Comments of the RUS
Switching cost adjusted for software upgrades	\$ 345	Calculation
Ratio of current cost to '92-'96 switch costs	0.9	Assumption
Current switching cost / line	\$ 311	Calculation
MDF / protector investment	\$ 12	Assumption
Total investment / line	\$ 323	Calculation
Traffic sensitive percentage	70%	Estimate
Traffic sensitive investment / line	\$ 226	Calculation
Annual cost factor	28.11%	Includes depreciation, cost of money, income taxes, maintenance and property taxes
Annual traffic sensitive switching costs	\$ 63.54	Calculation
Minutes of use / line	14,400	Footnote 11, "A Survey of UNE Prices"
Traffic sensitive cost / line - TELRIC	\$ 0.0044	Calculation
Forward-looking common costs	15%	Assumption
Forward-looking economic cost	\$ 0.0051	Calculation

Switching economic life (years)	10	Assumption
Net salvage	2%	"
Debt ratio	30%	"
Cost of debt	7.0%	"
Cost of equity	13.0%	"
Composite cost of capital	11.2%	Calculation
Effective income tax rate	39%	Assumption
Depreciation	9.8%	Calculation
Cost of capital (% of investment)	7.4%	"
Income taxes	3.9%	"
Maintenance expenses	4.0%	Assumption
Property taxes	3.0%	"
Total annual cost factor	28.1%	

3

1 Attachment WCC-4 – Unbundled Common Transport Rates

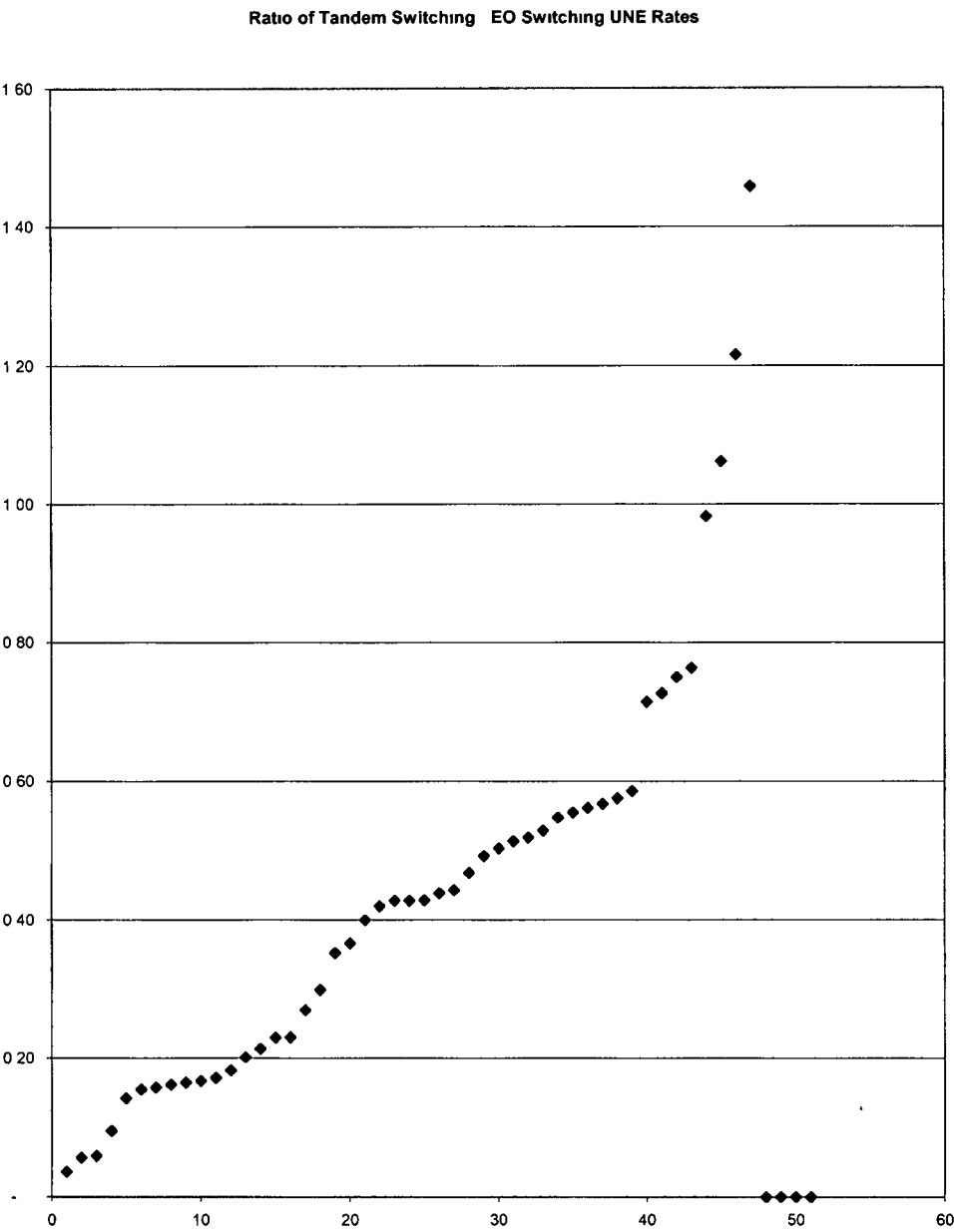
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3

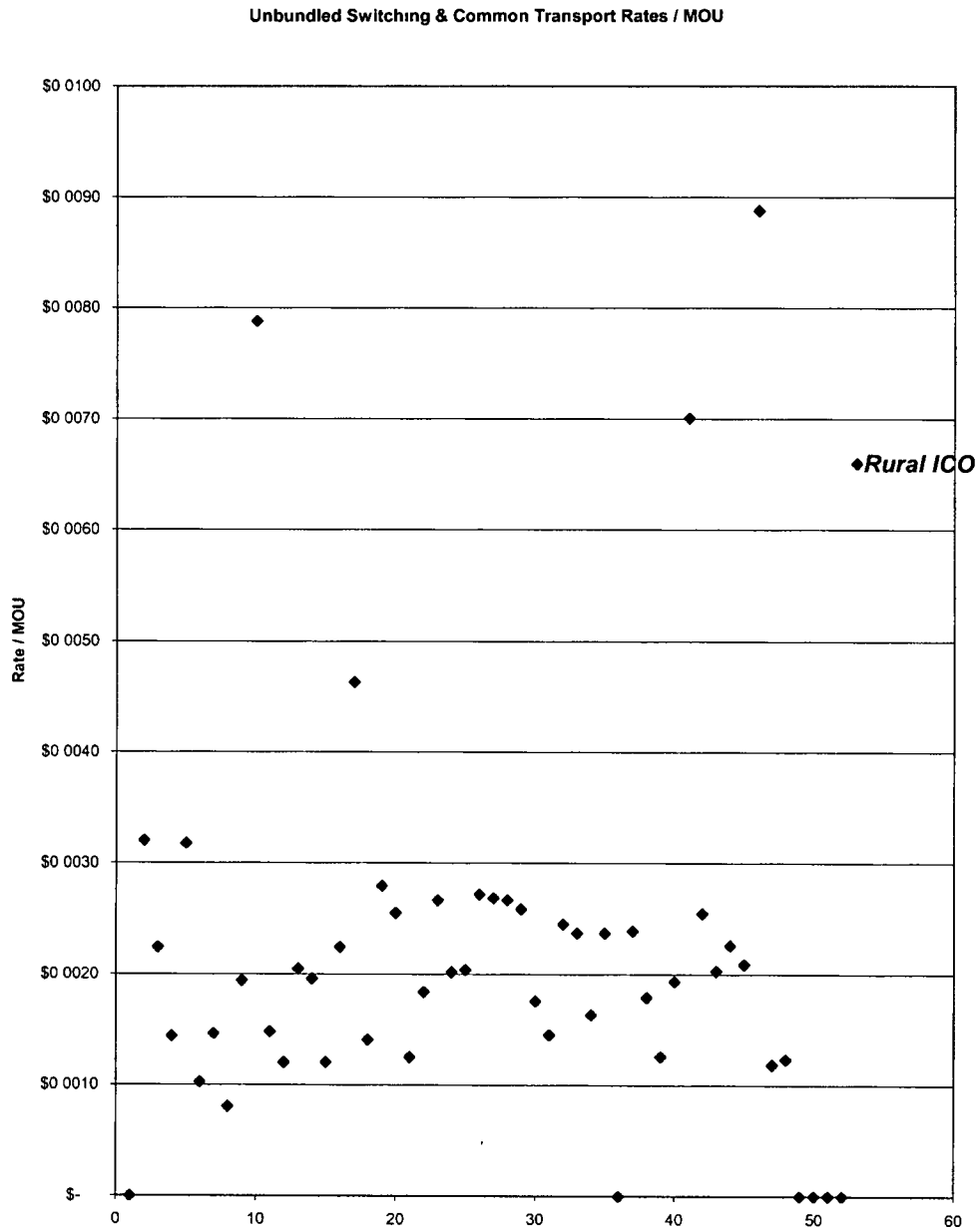
1 Attachment WCC-5 – Ratio of Tandem Switching to End Office Switching Rates

2



3

- 1 Attachment WCC-6 – Unbundled Switching & Common Transport Rates vs. Rural ICO
- 2 Transport and Termination Benchmark
- 3



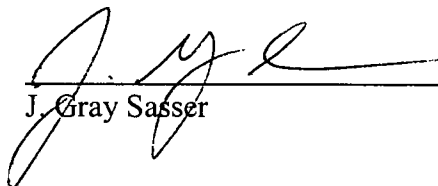
4

## CERTIFICATE OF SERVICE

I hereby certify that on June 3, 2004, a true and correct copy of the foregoing has been served on the parties of record, via the method indicated:

<input type="checkbox"/>	Hand	Stephen G. Kraskin
<input checked="" type="checkbox"/>	Mail	Kraskin, Lesse & Cosson, LLC
<input type="checkbox"/>	Facsimile	2120 L Street NW, Suite 520
<input type="checkbox"/>	Overnight	Washington, D.C. 20037
<input type="checkbox"/>	Hand	William T. Ramsey
<input checked="" type="checkbox"/>	Mail	Neal & Harwell, PLC
<input type="checkbox"/>	Facsimile	2000 One Nashville Place
<input type="checkbox"/>	Overnight	150 Fourth Avenue North
		Nashville, TN 37219
<input checked="" type="checkbox"/>	Hand	J. Gray Sasser
<input type="checkbox"/>	Mail	J. Barclay Phillips
<input type="checkbox"/>	Facsimile	Melvin Malone
<input type="checkbox"/>	Overnight	Miller & Martin LLP
		1200 One Nashville Place
		150 Fourth Avenue North
		Nashville, Tennessee 37219
<input type="checkbox"/>	Hand	Edward Phillips
<input checked="" type="checkbox"/>	Mail	Sprint
<input type="checkbox"/>	Facsimile	14111 Capital Blvd.
<input type="checkbox"/>	Overnight	Wake Forest, NC 27587-5900
<input type="checkbox"/>	Hand	Elaine D. Critides
<input checked="" type="checkbox"/>	Mail	Verizon Wireless
<input type="checkbox"/>	Facsimile	13001 Street, NW Ste. 400 West
<input type="checkbox"/>	Overnight	Washington, DC 20005
<input type="checkbox"/>	Hand	Paul Walters, Jr.
<input checked="" type="checkbox"/>	Mail	15 East 1 <sup>st</sup> Street
<input type="checkbox"/>	Facsimile	Edmond, OK 73034
<input type="checkbox"/>	Overnight	
<input type="checkbox"/>	Hand	Mark J. Ashby
<input checked="" type="checkbox"/>	Mail	Cingular Wireless
<input type="checkbox"/>	Facsimile	5565 Glenridge Connector
<input type="checkbox"/>	Overnight	Suite 1700
		Atlanta, GA 30342

<input type="checkbox"/>	Hand	Suzanne Toller
<input checked="" type="checkbox"/>	Mail	Davis Wright Tremaine LLP
<input type="checkbox"/>	Facsimile	One Embarcadero Center, #600
<input type="checkbox"/>	Overnight	San Francisco, CA 94111-3611
<input type="checkbox"/>	Hand	Beth K. Fujimoto
<input checked="" type="checkbox"/>	Mail	AT&T Wireless Services, Inc.
<input type="checkbox"/>	Facsimile	7277 164 <sup>th</sup> Ave., NE
<input type="checkbox"/>	Overnight	Redmond, WA 90852
<input type="checkbox"/>	Hand	Henry Walker
<input checked="" type="checkbox"/>	Mail	Jon E. Hastings
<input type="checkbox"/>	Facsimile	Boult Cummings, et al.
<input type="checkbox"/>	Overnight	P.O. Box 198062
		Nashville, TN 37219-8062
<input type="checkbox"/>	Hand	Dan Menser, Sr. Corp. Counsel
<input checked="" type="checkbox"/>	Mail	Marin Fettman, Corp. Counsel Reg. Affairs
<input type="checkbox"/>	Facsimile	T-Mobile USA, Inc.
<input type="checkbox"/>	Overnight	12920 SE 38 <sup>th</sup> Street
		Bellevue, WA 98006
<input type="checkbox"/>	Hand	Leon M. Bloomfield
<input checked="" type="checkbox"/>	Mail	Wilson & Bloomfield, LLP
<input type="checkbox"/>	Facsimile	1901 Harrison St., Suite 1630
<input type="checkbox"/>	Overnight	Oakland, CA 94612
<input type="checkbox"/>	Hand	Charles McKee
<input checked="" type="checkbox"/>	Mail	Sprint PCS
<input type="checkbox"/>	Facsimile	6450 Sprint Parkway MailStop 2A553
<input type="checkbox"/>	Overnight	Overland Park, KS 66251

  
 J. Gray Sasser